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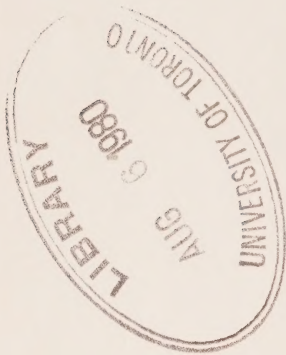






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21 Legislative Assembly

# Legislature of Ontario Debates

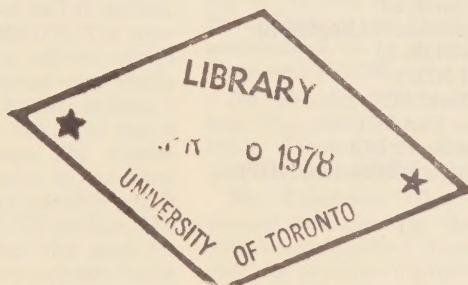
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## Official Report (Hansard) Daily Edition

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### General Government Committee

Supplementary Estimates, Ministry of Treasury, Economics  
and Intergovernmental Affairs  
and Ministry of Government Services



**Second Session, 31st Parliament**

Wednesday, March 15, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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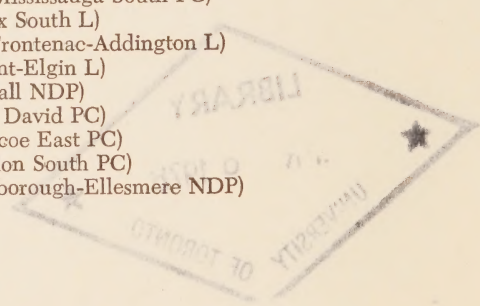
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## LEGISLATURE OF ONTARIO

WEDNESDAY, MARCH 15, 1978

The committee met at 1:10 p.m.

### SUPPLEMENTARY ESTIMATES, MINISTRY OF TREASURY, ECONOMICS AND INTERGOVERNMENTAL AFFAIRS

On vote 1105, local government affairs program:

**Hon. Mr. McKeough:** If I could just give the committee the background, this is related to the fire disaster at Cobalt on May 23, Mr. Chairman. These are rough figures and they have not yet been audited, but as close as we know them there was a total expenditure of some \$4.7 million. Clothing, food and billeting, \$75,000—that was emergency assistance; temporary accommodation, the trailers, \$842,000 less some rental, bringing it down to \$762,000; the clearing of the site and the redevelopment and infrastructure, including consultant fees, \$1.1 million. There are resales, lot acquisitions and so on; there were lots straightened away; bringing that up to \$1.2 million. Then disaster relief assistance—rebuilding homes, purchasing household furnishings and clothing—\$2.570 million. Other, \$100,000, for a total of \$4.737 million.

Canada has contributed \$281,000. The community and the fund-raising efforts, which really were very successful, raised some \$825,000. Ontario is picking up \$3,631 million.

To explain that, obviously not all of this is in the supplementary estimate. The supplementary estimate really pertains to the relief assistance. The supplementary estimate which I am responsible for was \$1.876 million. We had \$376,000 on hand; hence the need for the \$1.5 million supplementary estimate being asked for today.

In addition to that, Housing handled the lots through its normal program. As for the accommodation, are we involved in that, Mark?

**Mr. Trewin:** No, Housing took care of accommodation. MTC and Environment are into the infrastructure.

**Hon. Mr. McKeough:** They have all done that out of their regular appropriations.

**Mr. Trewin:** Northern Affairs has the extra \$500,000 additional grant.

**Hon. Mr. McKeough:** Right, yes. So we were really responsible for about \$1.875 mil-

lion, and we had the \$375,000, leaving the \$1.5 million. We agreed to contribute four provincial dollars for each dollar raised by the Cobalt Fire Disaster Relief Committee to provide a settlement of 90 cents on the dollar to persons suffering loss. The loss was determined, of course, by the local committee, which as I said did a good job. They raised \$695,000 and we're matching that, really, four for one with \$1.875 million.

**Mr. Laughren:** I'm a little fuzzy about the province's contribution, and the Treasurer hasn't unfuzzed it for me. I thought that Ontario's contribution totally was \$1.8 million, and I don't understand these other dollars you're throwing around.

[1:15]

**Hon. Mr. McKeough:** Our total contribution is \$3.6 million and through the temporary accommodation program we spent \$576,000, which has come from Northern Affairs, I guess.

**Mr. Trewin:** Housing.

**Hon. Mr. McKeough:** Housing? The clearing of the site and so on, which also came from Housing, was \$1.02 million. Emergency assistance—I don't know where that came from—was \$60,000.

**Mr. Trewin:** Community and Social Services. The infrastructure came from Environment, Transportation and Communications and Northern Affairs.

**Mr. Laughren:** Okay. But the point I wanted to make was that when you made your commitment—I thought it was three to one; are you sure it's four to one?

**Hon. Mr. McKeough:** Yes.

**Mr. Laughren:** My understanding was that four to one was TEIGA dollars, not other dollars.

**Hon. Mr. McKeough:** Right.

**Mr. Laughren:** The town raised \$693,000 and, if that is true, then TEIGA should have contributed a little over \$2 million. But the problem was that it was not an open-ended commitment, was it?

**Hon. Mr. McKeough:** That's right.

**Mr. Laughren:** Why would you put that restriction on it?



**Mr. Trewin:** The actual requirement works out to \$2.70 for every dollar they raised. They were very successful in their campaign—

**Mr. Chairman:** Excuse me. Could you come to a microphone, please?

**Hon. Mr. McKeough:** Mr. Trewin is the director of the subsidies branch in Treasury.

**Mr. Trewin:** The original commitment, based on estimates, was \$4 for every \$1 they raised. They were very successful in their campaign for raising funds; they raised nearly \$700,000. Also, the insurance settlements were higher than we originally estimated so the province only had to settle at the rate of 2.7 to one. The ratio of the \$1,876,000 to what they have raised is only 2.7 to one. There was a commitment of four to one if they needed it, but they didn't need it.

**Mr. Laughren:** I see. The other thing—perhaps you could remain there and answer this—is that when the main street was burned, there were a lot of small, independent businessmen burned out. Did any of these funds go to help the small businessmen rebuild their establishments?

**Mr. Trewin:** There were four businesses that were destroyed; and yes, the settlement covers them as well.

**Mr. Laughren:** So an independent businessman is eligible for those funds to rebuild a store that was burned?

**Mr. Trewin:** That's correct.

**Hon. Mr. McKeough:** But not if he got insurance.

**Mr. Laughren:** Yes, I'm not suggesting he gets both.

**Mr. Trewin:** There were four of them.

**Mr. Laughren:** I asked because I was talking to somebody from Cobalt who was saying that the businessman had trouble with TEIGA.

**Mr. Trewin:** The committee actually had the basic responsibility for settling claims, but we were involved in giving some advice and direction. In turn, because of the complexity of the business losses, we turned to an insurance consultant to give us advice and direction and we relied considerably on his advice in that connection. My understanding is that all four are really quite happy with their settlements. I know of no controversy at the moment.

**Mr. Laughren:** Would this be almost an automatic procedure? I mean, there could be fires at any given point. Would you always have to bring in supplementary estimates? Do you not have something that is in the main estimates?

**Mr. Trewin:** We provide \$300,000 each year. I think it is going up to \$500,000 this year; that's what we are asking for in the new estimates.

**Hon. Mr. McKeough:** It's the first time it has been used for a fire for a long time. It has normally been used for flooding.

**Mr. Trewin:** Flooding and wind storms. Actually, I think it was a wind storm that really caused this. The fire would have been contained on the one premises across the street, but the 50 mile-an-hour winds whipped the flames right across the street and just wiped out the whole area.

**Mr. Laughren:** I'm not asking you to set policy, but don't you think it would be a nice idea to have some kind of a fund established that would get a return while it was there? This is bound to happen, after all.

**Hon. Mr. McKeough:** I don't pay myself that much interest.

**Mr. Laughren:** Maybe you could lend it out to the teachers.

**Mr. Ruston:** You just raise it when you need it.

**Hon. Mr. McKeough:** There have been years where there has been nothing in this area. This is certainly one of the higher years.

**Mr. Trewin:** Grand River was a good year or at least a busy year.

**Hon. Mr. McKeough:** The answer is we don't see any reason for a permanent fund.

**Mr. Laughren:** My response is that it seems silly, in a jurisdiction of the size and complexity of Ontario, that you have to come before a standing committee with supplementary estimates for this amount of money. It doesn't make sense.

**Mr. Epp:** I have a few questions. While we are dealing with this, when we are talking about businesses, do we include the buildings and the goods that may have been lost in the fire?

**Mr. Trewin:** Buildings; building, equipment and inventory.

**Mr. Epp:** On another point—and this probably touches on what Mr. Laughren was talking about—in the policy of the government with respect to this, what criteria do you use for establishing what is going to be an emergency?

**Hon. Mr. McKeough:** The cabinet has to declare that a disaster has happened. That's the criterion.

**Mr. Laughren:** That's if the cabinet recognizes a disaster when it sees one.

**Hon. Mr. McKeough:** Normally we would send people there to have a look and see how bad it is. In this case, there was no question about it. Often what happens the first day seems much less worse on the second or third day, but there are no laid-down criteria.

The unusual part about this is that normally one might not have said it was an emergency except that it was a large fire. Obviously if your house burns down tomorrow or mine does, nobody is going to declare it an emergency. You have a responsibility to carry insurance.

Cobalt is a unique place in terms of the non-ownership of lots and squatters. Inasmuch as there were no lives lost in this fire, in many ways I suppose this is what planners would like to have done to Cobalt 20 years ago. In terms of sorting out the lots, I don't know how that's all coming. Good Lord, one of the first crises I got into municipal affairs was over that old guy who owned a good chunk of Cobalt and lived to be 103 or 104. There was a picture of him in the paper dancing on his 100th birthday.

**Mrs. Scrivener:** Mr. Sutherland.

**Hon. Mr. McKeough:** Sutherland, yes. He owned a great chunk of Cobalt and was going to kick everybody out on about February 20 and insisted on being paid for it. He had made his money out of one of the silver mines, as I recall. I think he wanted \$100,000.

Do you remember this, Mr. Trewin? He no more needed \$100,000 than to fly to the moon and we had no justification for giving it to him. I think ultimately we and the town, each put up \$50,000 or something under. What appropriation, I wouldn't know, but we didn't want to see 100 people kicked out in the snow in the middle of winter.

The sad part about that is that I don't think those lots were ever straightened away. They just went on in effect not having a clear title. The other situation like that—and I never knew what happened to that—was outside Kirkland Lake; King Kirkland was worse. This could only happen in the north.

**Mr. Epp:** What you are saying is that as a result of this—

**Hon. Mr. McKeough:** I doubt these people could have bought insurance. That would be my guess, because I doubt many of them had clear title to the lots.

**Mr. Trewin:** That was under question. I think they managed to get that cleared up because they have acquired—

**Hon. Mr. McKeough:** They have lots, yes.

**Mr. Trewin:** They have acquired lots and

subdivided them and sold them back to the owners. There are bigger lots.

**Hon. Mr. McKeough:** There are bigger lots, and hopefully we will go towards cleaning up the pollution problem as well. It is not that one welcomes a disaster like this but it may well have turned out to be a bit of blessing.

**Mr. Epp:** I just want to raise another point, and that is about the lateness of these supplementary estimates coming in on this particular matter. It happened on May 23 last. The year is almost over and supplementary estimates are now coming in within two weeks of the end of the fiscal year. It seems fairly late as far as I am concerned.

**Hon. Mr. McKeough:** We didn't know in December what the amounts were going to be or we might have brought them in then. The Chairman of Management Board (Mr. Auld) was collecting all of them and brought them in now. We normally bunch them once or twice a year.

The other answer to Mr. Laughren's question is, of course, that we could have done this by order at any time, but decided since we had supplementary estimates we might as well include it on the list and do it that way. The Auditor likes to see things voted, rather than by Management Board order.

**Mr. Laughren:** The town, I gather, has not received all this money yet, right? I don't expect that everything would be resolved and tied up in neat little packages, but are they going to get \$1.8 million from TEIGA? Is that the actual figure?

**Mr. Trewin:** Approximately, it is very close to that, within a few dollars, we expect. We haven't received the audited report yet, so we haven't quite finalized it. We expect that it will be very close to that figure. We have advanced most of that money now. We have a holdback just as a safety margin until we get the audited statements and we are satisfied.

**Mr. Laughren:** They were expecting \$1.8 million and then they were a little nervous when the figure of \$1.5 million appeared—

**Hon. Mr. McKeough:** Appeared in the supplementary?

**Mr. Laughren:** Yes. Exactly.

**Hon. Mr. McKeough:** That's because we found the other \$375,000 someplace else.

**Mr. Warner:** I have a question. Speaking about provincial disasters and other Conservatives, I wonder if we could for a few moments go back over briefly the matter which I put last year, and which has now been raised again by my colleague from Nickel Belt. Can you give me some very clear reasons



as to why it is not possible in this province to set up a permanent disaster relief fund, in a modest way, into a trust of some sort that would accrue interest to be used when the situation arises, such as the Cobalt fire disaster or other similar types of disastrous occasions? The government could put money in, either by way of TEIGA, or perhaps by way of Wintario; or partly from each of the municipalities, whatever. I am not suggesting something huge; I am not talking about several tens of millions of dollars. You used the figure, an average of about \$300,000 a year, I think, and that this year it was going to run to \$500,000, so if we were talking in the neighbourhood of \$600,000 or \$700,000 it is not unreasonable. Certainly it is a very small sum of money in relation to the total budget. What is it that precludes the government from setting up that?

**Hon. Mr. McKeough:** Nothing.

**Mr. Warner:** Then why can't we do it?

**Hon. Mr. McKeough:** Because there is no need to.

**Mr. Warner:** But otherwise we end up going through this supplementary estimate routine.

**Hon. Mr. McKeough:** I don't know how many times we've had supplementary estimates on this—

**Mr. Trewin:** I think maybe twice in five years. I think the Grand River, and it was a sizable one, and this one.

**Hon. Mr. McKeough:** I'm not particularly anxious to give up the Legislature's right to vote money.

**Mr. Warner:** I am not suggesting that either, because if it was set up as a fund it would come under someone's estimates and therefore there would always be the opportunity to debate it. From my own experience in Scarborough I know the struggle which a lot of people went through. Quite frankly, they couldn't understand why it was that from the time of the flooding disaster until the time they actually received the money for repairs, why it was that it took so long for that whole procedure.

**Hon. Mr. McKeough:** Because the borough didn't get around to doing its homework, that's what it amounts to. You know it and I know it.

**Mr. Warner:** Before the interjection, I was about to—

**Hon. Mr. McKeough:** We're not going to pay out money until the borough makes a formal application; that, purely and simply, is the answer to your question.

**Mr. Warner:** I realize that part of it is the formal procedures that have to be gone through by the borough, right?

**Hon. Mr. McKeough:** Which would not be any different if we had a trust fund or had a large amount sitting there doing nothing.

**Mr. Warner:** Following those applications, this government must then go through some formal procedures—

**Hon. Mr. McKeough:** No.

**Mr. Warner:** —and that's time consuming as well.

**Hon. Mr. McKeough:** No.

**Mr. Warner:** In 1976, in the flooding which occurred then, it was into 1977—in fact, I recall during the 1977 election campaign encountering people who had not been reimbursed.

[1:30]

**Hon. Mr. McKeough:** Scarborough had not made their application. Our procedures aren't that formal. Once we've said they're eligible for disaster aid then it's left to the ministers involved. The amount is really open-ended, depending on the amount that's raised locally.

**Mr. Warner:** Yes, isn't that part of the catch in all of this?

**Hon. Mr. McKeough:** No, not necessarily.

**Mr. Warner:** The amount to be raised locally, in the 1976 instance in Scarborough, was done by way of—

**Hon. Mr. McKeough:** It would not be changed if we had a trust. In fact trust, I suppose, would become more rigid than the somewhat flexible rules that we have now.

**Mr. Warner:** I'm not sure how flexible it is, inasmuch as you match what the local level comes up with, and the local level tries to raise money from industry and business. If industry and business isn't particularly generous because they're hard hit due to your policies in other areas, then you only have to match a lesser amount than what is actually required to repair the damage that was done.

**Hon. Mr. McKeough:** What you're asking us to do is change the philosophy, not set up a trust. The philosophy is that if the local people and the local municipality don't feel keenly enough that there's a loss then we really don't think we should be matching them. We are not about to set up a fund to move in to pay for somebody's loss; I think the demands on the public purse would be enormous.

You call it a catch, we think it's a protection for the taxpayers of the province.

The people who should know best should be required to raise some money; if they're not prepared to raise anything, for whatever reason, then I don't think it qualifies to be as serious a disaster as it would appear on the surface.

**Mr. Chairman:** May I interrupt? There are three other people who want to talk on this; and I think we should pursue this point under the full estimates.

**Mr. Warner:** Okay. Just in closing then, Mr. Chairman, I would say you may be right that there is a philosophic division there on how the thing should operate. But I would once again say to the Treasurer that in the case of the Cobalt fire disaster, had there been a permanent fund the whole thing could have operated far more quickly than what it did and—

**Hon. Mr. McKeough:** No.

**Mr. Warner:** —I would ask him to reconsider it.

**Hon. Mr. McKeough:** It would not have operated more quickly.

**Mr. Ashe:** It's an obvious situation where you're damned if you do and you're damned if you don't. I think the present policy is the right one. We shouldn't be giving any indication there is a pot of money in the sky that appears out of nowhere on a regular basis and happens to get thrown into a pot that anybody can draw on.

The question I have relates to who determines this. Is it part of the government's recognition of the disaster? In other words, is it in the cabinet order, administered through the ministry or the local committee, as to where a person's responsibility to have insurance ends and the public purse starts picking up part of that in whatever way possible? I must say that disturbs me. I don't think we ever want to get to the point of giving the impression of: "Oh, well, don't worry about insurance. In one way or another, disaster funds will take care of you if disaster strikes." I don't think that's fair to the 90 or some odd per cent of the people who take care of their obligations.

**Hon. Mr. McKeough:** I think the philosophy is that yes, people should have insurance but in the case of flood or in the case of this kind of a fire, perhaps they couldn't get it or it wasn't available.

We turned down, on one famous occasion, a very nasty one where an inmate of a provincial institution burned down a barn which was uninsured and cabinet took the view that the barn should have been insured. We debated that one for some time, it's

fair to say. Normally we would say insurance, where it's obtainable, should be taken out.

In the case of the greenhouses the Minister of Agriculture and Food (Mr. W. Newman) has made an announcement at Leamington. The plants in those greenhouses, as I understand it, have not been insurable, there isn't insurance available, so he announced there that we were prepared to do something; but the rule would be, yes, they should have insurance.

**Mr. Ashe:** Okay, So it's part of the cabinet recognition of the problem.

**Hon. Mr. McKeough:** Yes.

**Mr. Ruston:** The homes that burned were those of squatters; they did not own the building themselves so they couldn't get insurance, is that it?

**Hon. Mr. McKeough:** I think it was about that, yes.

**Mr. Trewin:** There was some doubt about it. They were concerned about their ownership. But I understand it has been resolved; the municipality has now been able to purchase the land and then sell it back to them; I believe they have clear title now. Some of them, at the turn of the century, just said, let's go on up on the hill and build a house and this is exactly where they went. Actually, I think the mines possibly run right under their homes so that creates some problem; the mines could have thrown the book at them if they wanted to.

**Mr. Ruston:** So in other words this was allocated to anyone who had a home, whether he had insurance on it or not. If one person had insurance on it, I take it, he would get nothing and if the other fellow didn't would he get—

**Hon. Mr. McKeough:** I think that's right, although I think some of them were under-insured as well, weren't they, Murray?

**Mr. Trewin:** Yes, they all got the same treatment. We took off the insurance that they had and settled on the formula basis. We looked at this very, very carefully and found great difficulty, because we found there were a number who had some insurance, but they were under-insured as well. The insurance companies incidentally, we believe were very liberal and didn't throw the book at them so—

**Hon. Mr. McKeough:** Generous, not liberal.

**Mr. Trewin:** We were concerned about these people and taking a compassionate approach with them. Some of them, I believe,



would have difficulty in getting insurance. Their homes were just little cabins cheek to jowl against the other ones and it would have been very costly. Some of them gamble; they win and they lose, this time maybe they won.

**Mr. Ruston:** I have talked to people who live there and around the area. They mentioned that to some extent, as Mr. Ashe mentioned, we absolve them of their responsibility to carry insurance, and that's the only thing that bothers me. We have to make sure people at least look after their basic responsibility and then we look after the emergency part. That's all I wanted to find out.

**Mr. McGuigan:** I have no philosophical or policy questions about this fire in Cobalt and helping these people; just a question about the recent disaster, the January 26 storm. The Treasurer has mentioned that some arrangements have been announced concerning drain-off units.

I have two other instances I would like to mention to him. I think it comes under his field more than the Ministry of Agriculture and Food. One is a shipyard, and the Treasurer would be very familiar with this property. It's built on unowned property, and because of that and also the fact that it's right on the shoreline as shipyards have to be, insurance was either not available, or if available at a very exorbitant rate. A great many jobs are involved in the rebuilding of this shipyard, so I would submit that it should be considered along with greenhouses.

Another situation involves some experimental burley tobacco barns that were built. The minister, if he's travelled the road between Blenheim and Ridgetown, has probably seen those barns. Because of their nature they're not insurable. Considerable damage was also suffered there.

**Hon. Mr. McKeough:** Could you give me a line on both those things? I think I will give it to the Minister of Agriculture and Food.

**Mr. McGuigan:** I have sent one to him.

**Hon. Mr. McKeough:** Have you? I must speak to him.

**Mr. McGuigan:** I'll send copies to you.

**Mr. Chairman:** If there are no more questions—

**Hon. Mr. McKeough:** I think I should explain, when I say I'll speak to the Minister of Agriculture and Food; normally what cabinet does is appoint a ministry to handle these things. I'm not just sure why this ended up in our estimates, except that there was no logical place for it. The actual carrying out

of the program was by the Ministry of Northern Affairs, I guess, and the Ministry of Housing was involved right from the beginning, along with the Ministry of Natural Resources. It didn't fall within any estimates. The storm damage clearly did, with Agriculture and Food, even though it isn't all agricultural damage. If necessary that will end up in his estimates, I would guess, at some point or another. But it is always the subsidies branch that ends up doing the work on it.

**Mr. McGuigan:** A further related question: one municipality was hit with very high snow removal costs. They are asking whether or not there is going to be any assistance to municipalities that spent way over their normal snow removal budget?

**Hon. Mr. McKeough:** The formula that was introduced last year is a permanent formula. Maybe it isn't good enough but—

**Mr. McGuigan:** It is permanent?

**Hon. Mr. McKeough:** Yes. As I understand it where they exceed whatever it was—a three-year removing average or five, one or the other, three, I think—then they are eligible. That township will probably—

**Mr. McGuigan:** I thought it was a temporary measure.

**Hon. Mr. McKeough:** No, I think he brought that in as a permanent policy to take out the peaks and valleys of snow removal.

**Mr. McGuigan:** This brings me to a question that others have asked about this whole disaster thing. Is this enthroned in any particular piece of legislation or is it just a matter of cabinet—

**Hon. Mr. McKeough:** The authority for it is in the vote that is established. It used to be a small vote but then it is going up to \$500,000 this year. But the authority is given by the House to do these sort of things. I think Mark has some letters, some rules, but I don't think they have ever even been enshrined in a regulation; have they, Mark? They are cabinet minutes.

I guess they would be cabinet minutes, which are certainly available and public. But we have never tried to tie it down—we would never have anticipated a fire in Cobalt, that's for sure—in any piece of legislation or a regulation. So it is a relatively loose arrangement.

**Mr. Trewin:** It is confined to a certain area; the basic shelter, just the house and the barn; and the small business building and equipment; that sort of thing. We don't go into recreational equipment that is lost and



that sort of thing. Just the basic needs of a person.

**Hon. Mr. McKeough:** It used to be dollar-for-dollar, but then the Grand River changed that and obviously something better was needed. That's when we went to the four-to-one program.

**Mr. Epp:** I guess I've got two questions: one is as a result of your comment. Would you also reimburse municipalities if they lost a building or property, goods; or would municipalities be exempt from that?

**Mr. Trewin:** This is just directed to the private owners of homes and businesses, and farmers; that's all. It doesn't cover municipal losses.

**Mr. Epp:** So municipalities have their own insurance?

**Hon. Mr. McKeough:** I think 99.9 do have them well insured. Frank Cowan does a pretty good job of that.

**Mr. Epp:** But in the case of Cobalt, where they may not have had legal right to property on which that building was situated an exception could have been made for them, but there wasn't any reason for it then?

**Hon. Mr. McKeough:** Yes.

**Mr. Epp:** The second question is—I suppose it's been touched on earlier—why did the money come out of Housing? Is there any logical reason it came out of Housing? Because they had the surplus funds or—

**Hon. Mr. McKeough:** No, because we wanted them to put it on a plan of subdivision.

**Mr. Epp:** Oh, that was one way of putting conditions on them?

**Hon. Mr. McKeough:** Yes. They resold some of the lots. They took lots in, bought some lots and resubdivided; and they were the obvious people to do that. I don't know whether they did it directly or through OHC.

**Mr. Trewin:** I really can't answer that. The temporary accommodation is taken care of by Housing; but the other areas, the infrastructure costs, I think—is the question directed to the infrastructure costs? That's MTC and the Ministry of the Environment.

**Hon. Mr. McKeough:** But the lots themselves—

**Mr. Trewin:** They simply bought the lots at \$1 a square foot from the owners and they are selling them back to them at a \$1 a square foot. There is a deficit as a result of that, because some of the lots are not saleable and the municipality is really stuck with those. They were hoping that aspect

would be self-liquidating, but there will be a shortfall position as a result of that.

**Mr. Epp:** That property will then be turned over to the municipality?  
[1:45]

**Mr. Trewin:** The municipalities have acquired that property, yes; and there are still a few good lots they expect they will be able to sell later on. They will be serviced lots.

**Hon. Mr. McKeough:** The estimated figure, Herb, is that the lot acquisition was \$430,000; resales to owners, \$300,000; for a net loss of \$100,000.

**Mr. Epp:** Whatever money accrues to the municipality will then be returned to the province; is that the way it went? Because the municipality cannot be in a gain situation?

**Hon. Mr. McKeough:** It was deducted from the total, wasn't it? No, it really wasn't.

**Mr. Trewin:** At the moment there has been no plan to look to the municipality to return that. At the moment they are in a deficit position estimated at \$130,000, and they are very concerned about whether they are going to get the money to carry that. Later on, if they are able to sell these lots, they may very well end up with a recovery of some of that deficit. I don't think they are going to make any profit on it at all.

I should add on the other business of the concern about settling with people who are insured, or partially insured, or not insured at all; when we came down to the final net figure for each claimant—having taken off insurance—we then applied the 90 per cent. Everybody had to carry at least 10 per cent of what was declared their net loss positions.

**Mr. Warner:** Going back to something you mentioned earlier, I have a further question. You brought this amount forward by way of supplementary estimate because of the size of the amount.

**Hon. Mr. McKeough:** Yes.

**Mr. Warner:** In the past, in some instances, it has been done by Management Board order, is that correct?

**Hon. Mr. McKeough:** Yes. Or by warrant if the House hadn't been sitting.

**Mr. Warner:** Yes; two things, then. Are you now going to proceed more by way of supplementary estimate rather than by Management Board order? And in conjunction with that, is there a cut-off figure of some sort? It's a \$1.5 million figure here. What kind of figure would it take, in your view, to have it come forward as a supplementary estimate?

**Hon. Mr. McKeough:** It's not my decision; it is the Chairman of Management Board's

decision. He has for the last two or three years increasingly tried to get more of the larger amounts into supplementary estimates. I don't know that I've seen one for less than \$1 million. That may be the figure in his mind, but you would have to ask him.

There are still some orders over \$1 million, and over \$1.5 million, often because they don't know the final amount and they are carrying it. I think the other thing he bears in mind is that where there's a set-off, if a ministry is underspending in one part of a vote and overspending in another vote, even though the amount was \$2 million in both places, he would just set that off and wouldn't worry about it. But he hasn't any hard and fast rules.

**Mr. Warner:** I just wondered, because I agree with bringing it forward as a supplementary; but I wondered if there was some sort of idea in mind as to what would be an appropriate cut-off point—whether it should be \$1 million or half a million, or three quarters.

**Hon. Mr. McKeough:** I think he'd argue to keep the flexibility, but he is under some pressure from the Auditor to do as little as he can.

Vote 1105 agreed to.

**Hon. Mr. McKeough:** Thank you, Mr. Chairman; I thank you, and Cobalt thanks you.

#### SUPPLEMENTARY ESTIMATES, MINISTRY OF GOVERNMENT SERVICES

**Mr. Chairman:** The Ministry of Government Services is page 2 on my estimate sheet.

On vote 804, supply and services program:

**Hon. Mr. Henderson:** Mr. Chairman, the entire amount is required as a payment due on January 1, 1978 to the Public Service Superannuation Fund in respect to the unfunded liability as on December 31, 1976, but revealed a month ago in an actuary report dated February 7, 1978.

Actuarial evaluations are required every three years under the Pension Benefits Act. Previous valuation was as of December 31, 1973. This had resulted in an obligation to pay, in respect to the unfunded liability, \$21,589,000 annually, part in April and part in January. The 1977-78 payment of \$21,598,000 was prepaid in the fiscal year of 1976-77. In other words, we paid it just before the end of March. Only a nominal \$1,000 was included in the 1977-78 estimates pending receipt of the actuary report of December 31, 1976. The latest report disclosed that pending revision on the next valuation,

annual payments commencing 1977-78 should be increased to \$54,506,000 and paid as of January 1 of each year.

The total payment, as I have just said, is \$54,506,000. The last 1977-78 payment—which I told you we made a year ago now instead of after April 1—was \$21,598,000. That left a total of \$32,908,000, less the interest that accrued on this of \$1,572,000, which left a balance outstanding of \$31,336,000, less the amount that was originally approved of \$1,000. So that cuts us down to the supplementary estimate of \$31,335,000.

**Mr. Ruston:** I was interested in the minister's opening remarks where he mentioned the actuary report. I noticed from that report that the annual payment for 1978 is \$31,336,000 and then for January 1, 1979 it is recommended to be \$54,506,000; and then the year after that \$37,622,000 and so on.

What I am wondering about is the investment policy of the public superannuation fund. I understand that, in effect, it is deposited into a special account in the province's consolidated revenue fund and is given a rate of interest at the current long-term or 25-year bond rate issued or guaranteed by the province of Ontario. This means that the amounts now in the consolidated revenue fund are earning interest at rates ranging from six per cent to 10.1 per cent and that the blended interest rate for all funds as of March 31, 1976, was 7.561 per cent, and that it will increase in 1977 to 7.94 per cent.

We know the public superannuation fund has very generous benefits with respect to its indexing formula and that its unfunded liability has increased from \$244 million in 1973 to \$505 million in 1976. This is why we are faced with large future payments for the unfunded liability that is revealed in the report of the actuary. My point here is that due to the generous benefits of this fund, the unfunded liability has the potential to increase; therefore, so too do the province's payments on it, and this necessitates maximizing the rate of return on the money in the fund.

The interest rates being given to the most recent amounts may be more in line with current market rates, but the large amounts invested earlier at much lower rates are pulling down the overall return. I would wonder, Mr. Minister, if there is any consideration of making a change here in light of what you are doing with some of the OMERS funds now—where they are going to bring in, I understand, about 10 per cent; that might increase the benefits so that we would have more money available. That's a concern we



have to have with regard to the pension benefits that are being accrued. I am wondering, if you have any plans for a better investment than you have been making up until now?

**Hon. Mr. Henderson:** No, we don't have any plans at the moment for making any drastic changes as you have suggested. The money is loaned to the provincial treasury at whatever the average interest for the year may have been. If it's nine per cent it's loaned on a period of 20 years. If it's seven per cent, you're right, some of the moneys are loaned on a 25-year period. It's exactly the same as if the minister went out on the open market and borrowed \$5 million or \$10 million and had to pay the interest on the open market. That is the amount that he pays here for a 25-year term. We don't have any plans at this moment to change that policy.

**Mr. Ruston:** The pension, I understand, has an indexing of up to eight per cent in accordance with the cost of living. I understand that the civil service had to increase the contribution by one per cent to allow for that, did they not?

**Hon. Mr. Henderson:** Yes, I believe that is correct. The civil servant pays six per cent, the province puts in six per cent.

**Mr. Ruston:** Unfunded?

**Hon. Mr. Henderson:** Yes. I'd like to get that part cleared up. Could I ask my assistant deputy, Mr. Strauss, to answer that?

**Mr. Strauss:** Mr. Chairman, the escalation is paid from a separate fund and the additional one per cent goes into that fund, so the unfunded liability that you're talking about here has nothing to do with the escalation.

**Hon. Mr. Henderson:** This requirement really came about during the first half of the 1970s when wages escalated so high, as we're all well acquainted. People went on pension at a high wage having paid in at a low wage. This caused a deficiency in the fund.

I should go on and tell you—and I believe I did, but just to enlarge on it—that this will be revalued every three years to see what the requirements are.

**Mr. Ruston:** The unfunded liability, of course, is increasing pretty fast too, even for the regular amount.

**Hon. Mr. Henderson:** That's because of the low wages of 25 years ago.

**Mr. Ruston:** Yes, that's right. I'm wondering if we're going to get into problems in the next 10 years over that. That's what I'm

worried about. It's going to increase considerably, I would think, over the next few years, although I'm not an actuary. I'm sure Mr. Strauss is more aware of that than I am.

**Hon. Mr. Henderson:** I can't answer that. We're all aware, as the prices go up, and they pay in at the lower rate there will be problems, yes. I would think that you will be back in a similar position every three years. I might say that we will be including this total amount in this year's estimates. It's an actual figure for next year's estimates. We didn't know of any other way to accomplish it until we have this report.

**Mr. Davidson:** Have you any idea of the ratio between those who are paying into the fund and those who are collecting out of it? That, too, has an effect on it. Can you give me the number of persons? There has to be a balance.

**Hon. Mr. Henderson:** How many pensioners have we got, that's really what you want to know. I don't have that. Do you have it, Mr. Strauss?

**Mr. Strauss:** I can't supply the ratio, but the actuarial evaluation for the end of 1976 takes into account the people then on pension plus the people still in the fund; and the commitment to those people who are still working and an estimate of when they retire, when they die and so on. I can give you some figures.

**Mr. Davidson:** For how many years?

**Hon. Mr. Henderson:** While we're getting those figures, this estimate is supposed to be the amount, but if wages go up another 15 to 20 per cent it could cause a problem.

**Mr. Ruston:** The unfunded liability could keep rising pretty fast. It went from \$244 million in 1973 to \$505 million in 1976. By 1980 it could be an astronomical amount.

[2:00]

**Hon. Mr. Henderson:** We're aware of that. We're aware that this could cause us problems.

**Mr. Strauss:** The latest figures we have on hand—from the annual report for the year ended March 31, 1977—show that at the end of the year there were 75,892 contributors.

During that year we paid allowances—that is, a full pension—to 12,966 cases as against 12,162 at the end of the previous year. These were made up of 1,377 disability pensioners, 7,980 service pensioners—that is, people retiring in the regular way—and 3,609 spouses or children; in other words, these are survivors of people who've died.

In addition to that, we had what are called annuities for people who have retired early



and either get an immediate annuity or are eligible for a later annuity. At the end of that year, there were 2,009 people receiving immediate annuities; these are pensions which are actuarially reduced because of early retirement. Does that give you the proper proportions?

**Mr. Davidson:** You still have far more paying in than are receiving.

**Mr. Strauss:** Oh, yes.

**Hon. Mr. Henderson:** By chance, do you have the amount, say five years ago?

**Mr. Strauss:** The number of pensioners?

**Hon. Mr. Henderson:** Yes.

**Mr. Strauss:** Not on hand, sir; I'm sorry.

**Hon. Mr. Henderson:** It's bound to be increasing. The age has come down; there's bound to be an increase in the numbers.

**Mr. Ashe:** Either the minister or his deputy can answer my questions. Is it not safe to say, in terms of this increasing unfunded liability if you will, that any pension plan that is not a money purchase plan has the same problems? It's not unique to this one.

**Mr. Strauss:** That's right, sir.

**Mr. Ashe:** Right, and I'm sure you know what I'm saying there. If he doesn't, in effect, for each dollar that's in you buy an annuity each year.

Second, regarding the formula of how the government arrives at an interest rate each year, again I would submit—and you can concur or otherwise—that this is again not unique. If you think of another large financial institution, such as an insurance company, that's exactly what they do. They take in premiums or whatever this year, invest it in mortgages for 25 years and in effect they're stuck with that rate. Next year it could be higher or it could be lower. In effect, they always have a rolling 25 years of average interest. That in itself is not unique either. Is that a correct assumption?

**Mr. Strauss:** That is correct.

**Mr. Ashe:** All I wanted to point out was that what we're doing is not, to use a phrase, a bastard system. It's quite orthodox in the financial community.

**Hon. Mr. Henderson:** It is not unusual.

**Mr. Ruston:** Yes, but the unfunded liabilities could catch up to you a little bit faster. The taxpayers will have to contribute probably at a faster rate than we are now. You have to understand about things like that.

**Mr. Ashe:** As long as we're going to pro-

vide pension plans from any sources that are not money-purchase plans, yes, you're going to get ahead in that sense.

**Mr. Davidson:** Mr. Henderson, did the actuary give you any figure as to what the rate of return should be in order to bring the unfunded level up closer to the funding level over a 25-year period?

**Mr. Strauss:** The actuaries are recommending these payments on the basis of the continuation of the present policy, both in terms of contributions by the employees and the employer and the investment policy that was just outlined. I presume one could make a great variety of other calculations which would answer the problem differently. I don't know whether a ready answer is at hand.

**Mr. Davidson:** In some cases, for example, they'll tell you that you should get a return on your investment of, say 11 per cent in order to narrow the gap.

**Hon. Mr. Henderson:** The amount here, the \$31 million plus, more or less tells you the amount of additional money we need. Now what do we take in as interest at the moment?

**Mr. Davidson:** He gave that figure earlier. I think it's an average of more than seven per cent.

**Hon. Mr. Henderson:** Did he?

**Mr. Strauss:** That is the blended figure over the various amounts in the \$25 million.

**Hon. Mr. Henderson:** What does that amount to in millions? What is the present interest income on this investment? That would help answer Mr. Davidson's question.

**Mr. Strauss:** Very roughly—this again is for the fiscal year ended March 31, 1977—the auditor's report says we collected \$75,714,085 in interest. These are various combinations of interest.

**Hon. Mr. Henderson:** Wait a minute. We took in \$70 million plus, and they got about \$50 million with it.

**Mr. Davidson:** It's really lopsided.

**Hon. Mr. Henderson:** Yes. We take in about three-fifths of what we really need.

**Mr. Strauss:** The question is, of course, where would you get the higher rate of interest if you did calculate it?

Vote 804 agreed to.

**Mr. Chairman:** This completes the study of the supplementary estimates of the Ministry of Government Services.

The committee adjourned at 2:07 p.m.

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 Trewin, M. D., Director, Subsidies Branch, Local Government Division.

**From the Ministry of Government Services:**  
 Strauss, E. F. H., Assistant Deputy Minister, Supply and Services.











*Legislative Assembly*  
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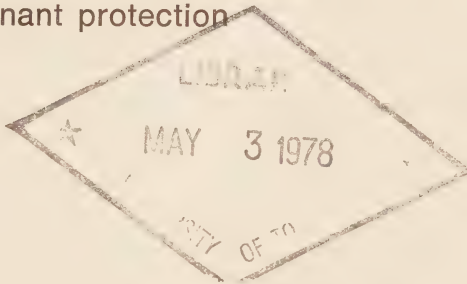
No. G-2

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### Second Session, 31st Parliament

Wednesday, April 5, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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# LEGISLATURE OF ONTARIO

WEDNESDAY, APRIL 5, 1978

The committee met at 10:42 a.m.

## TENANT PROTECTION

**Mr. Chairman:** I realize that there was a conflict between the order paper—whatever it's called—and the announcement in the Legislature last night. But it was a 10:30 start. If it seems appropriate, I want to outline the four or five points I thought we should address ourselves to this morning and then throw it open for discussion; but I thought we should start off with this order, as it's subject to your agreement.

Let's talk about some of the mechanical things, such as do we need counsel. If so, maybe we can recommend a specific counsellor, who might sit down at another time and decide if a consulting firm which Mr. Renwick had suggested might be useful to us.

Perhaps we can dispose of those kinds of questions. The thing that is of concern to me—and I guess it is to everybody—is that following today we are left with only eight Wednesdays. Obviously, there is a hell of a lot to do in that eight weeks. I think it would be appropriate to decide today who should appear and how many of the eight Wednesdays should be devoted to rent review—I'm inclined to think, obviously, the bulk of it—how much to landlord-tenant and housing. Maybe at the end we should decide just specifically what times. I think I'm right: it is going to be Wednesdays. Should we make it 10:00 to 1:00 and 2:00 to 6:00, or whatever? We should talk about those kinds of things. Does that seem like a reasonable outline?

[10:45]

**Mr. Duksza:** Are we a quorum?

**Mr. Chairman:** I don't know.

**Mr. Mancini:** This should be a quorum.

**Mr. Epp:** Those times sound fairly reasonable, Mr. Chairman. This is my first experience on a committee of this nature, but it sounds reasonable to me.

**Mr. Warner:** I think normally the committees sit from 10:00 until 12:30 and then 2 until 4 or 4:30. That's normally what happens.

**Mr. Mancini:** Do you think we could sit one long stretch in the afternoon instead of breaking up the day? That way, we could at least have the morning to ourselves if we had any other work to do. Say, sit from 1:30 till 6:00 or from 2:00 till 6:00, instead of coming in for an hour and a half and running out and coming back two hours later. I think we should be able to have an attention span of four hours anyway.

**Mr. Warner:** I'm just going on my past experience from other committees. I've found that first of all, you need as much time as you can squeeze out of the day. That way we can get five hours in a day. It was good to have a break at lunchtime. Often there were things that we wanted from counsel, and so on; and it gave the staff the lunchtime to get what other materials were needed. It gave the three parties an opportunity to caucus over the hour and a half if they wished it.

I found that great. We had two-and-a-half hours in the morning and two-and-a-half in the afternoon. It seems to be a very practical way to handle it.

**Mr. Duksza:** Maybe the way to do it, Mr. Mancini, is 10:00 to 12:30 and to shorten the lunch break to an hour; and then work from 1:30 to 4:00. That still allows most of the evening free for people.

**Mr. Makarchuk:** I think it should be understood, Mr. Chairman, that it's the decision on the part of the House leaders and whips that you're not going to sit Wednesday nights. The committee can't change that even if it wanted to.

**Mr. Chairman:** Okay.

**Mr. G. E. Smith:** I tend to agree with Mr. Mancini, although I'm flexible. As Mr. Warner said, the normal day's sitting for a select committee is the hours in the morning and in the afternoon. I'm not suggesting that we should shorten the number of hours, but I find that when the House is in session that it is helpful to have a bit of the morning, or as much of the morning as possible for constituency work. But I also realize that maybe there are from time to time positions we want to go back to our caucus on. I'm flexible

on it, but I can understand Remo's position too.

**Mr. Chairman:** Perhaps it makes sense that we do 10 to 12:30 and 1:30 to 4, that is five hours; and then obviously we can talk about that when we look at who we think should appear. We may have to decide to keep some flexibility there. But that does boil down only to 40 hours, which is, I think, the single biggest problem we've got.

Jim, do you want to just mention some of your own thoughts about counsel for the committee and consulting-type firms?

**Mr. Renwick:** Yes, with the agreement of my colleagues on the committee. I had mentioned to you, Mr. Chairman, that I felt we'd gotten into a bad habit of always feeling we had to have counsel. While professionally I sometimes think that's a good idea, I don't think it is the prime requirement at this time. I think that what the committee needs more than anything else is the buffer for the committee, between the vested interests that are likely to appear and the committee itself, on the whole question of the economics of the housing industry, rather than any specifically legal information. Insofar as that part of the proposals in the green paper—if you can dignify them by that term—relate to the specifically landlord-tenant relationship, there are ample lawyers within the Ministry of the Attorney General or on his staff who are seconded to other offices, where you can get that kind of specific technical advice about the meaning of the Landlord and Tenant Act. I don't see the purpose of retaining outside counsel for the purpose of that information.

If the committee did decide to have a qualified competent firm of management consultants, they are quite capable of making their own presentations and asking the questions without having to have counsel for the committee. Also, in these days of restraint, of course, it would be a significant saving if one of the lawyers knowledgeable in the field of landlord-tenant relationships within the Ministry of the Attorney General acted as counsel or as legal adviser, whatever term could be applied to it.

**Mr. Chairman:** Does everybody concur?

**Mr. Epp:** It sounds very reasonable to me, Mr. Chairman. As far as we are concerned, that would be acceptable.

**Mr. Duksza:** Mr. Chairman, I like the idea that we would not be excessive in spending money, in going to major consulting firms and major lawyers. When it comes time for us to discuss the landlord-tenant relationship—the way you sketched it out we start with

the rent review and then go to landlord-tenant and then to housing—we may use people from the Attorney General, which is a very good idea.

In terms of the first part—which is really one of the more important ones in the way you sketched it out—I wonder if we should think not even in terms of consulting firms or a lawyer, but maybe someone who is an expert or just one individual consultant—which wouldn't be that expensive—who would participate and help us with it. Someone who is really quite knowledgeable on the subject.

If you have a large consulting firm, we really are now talking of extending it quite significantly, I would say.

**Mr. Renwick:** Perhaps I could speak to that. Unless I am wrong, the burden of expense to the committee would be no different whether it was a single consultant or whether it was a firm; they all charge on a per hour basis and the benefit of having a firm is that the person who is there has the resources of his firm available to him without adding costs to what there is involved.

I think those of us who were on the company law committee dealing with automobile insurance were extremely impressed with the objective nature of the work done by the Woods Gordon firm. I hold no brief for them, there are others equally competent; but I think the fee is quite reasonable and indeed my understanding is that it is significantly lower than the fee for counsel.

**Mr. Warner:** I appreciate what Jim has mentioned. I just have a concern: I think we should clearly identify what it is that we want to do on the committee before we decide what we need in the way of support. In other words, I figure from the documents that the most important matter is the rent review. It wouldn't make any sense to bring in a consulting firm which has some sort of expertise in housing if we are dealing with the rent review; nor to bring in a lawyer from the Attorney General who is an expert in the Landlord and Tenant Act if we are dealing with rent review. He should be here when we are dealing with the Landlord and Tenant Act situation.

Therefore, I think that what the committee should do first is to set out on some sort of rough timetable or schedule for how it is we want to approach the thing; and then to see who we need to fit into that. I would suggest very strongly that we start with the rent review material and that when we have exhausted that, when we have done the job on that, we then go on to the next part, whatever the committee decides is the next part.



We may require different kinds of professional people as backup staff. I agree with Mr. Renwick that there are people over in the Attorney General's department who would be of value to this committee when we are discussing the Landlord and Tenant Act. I am sure it would be extremely useful to us. But they don't need to sit here for eight weeks if we are not going to discuss the Landlord and Tenant Act for eight weeks. That's my concern about it. I would like us to do it in that order, rather than in the reverse.

**Mr. Chairman:** Any other comments? That makes some sense. Should we just jump ahead and look at the eight weeks and decide how many Wednesdays we are going to devote to rent review and to the landlord-tenant relationship?

Let me ask a question now, because I was not here in the House last night: I understand there was some discussion about the bigger question of affordable housing. How germane that is to what we are trying to address ourselves to, and specifically what the resolution states is questionable. I just don't know in the eight weeks whether there is time to discuss affordable housing in Ontario, as important as it is, and I am not sure that the resolution makes that something that we should be talking about.

**Mr. Mancini:** I certainly wouldn't want to be the one to curtail any type of discussion on affordable housing, but I think we have a very large and important matter before us now, that is what are we going to do after December 31, 1978, for rent control. To do a fair and just job on behalf of the tenants and the landlords, we should spend as much time as possible on this. If we take on three or four things, we are going to do three or four things not very well at all.

**Mr. Makarchuk:** I agree with the idea that we should at this time concentrate on the rent control or rent review aspect of the resolution. But it seems to me as we are going to go through the green paper there will be certain things in it that we would probably have to investigate a little deeper. In that case, we would have to call on professional people to elaborate on it and perhaps explain it to us or else give their opinion, how can we try to squeeze in all this within the eight weeks we have ahead of us? This is the thing that is starting to bother me right now.

Also, of course, there is the fact that the rent controls expire, the three-month period and everything else. I am just throwing that out for consideration at this time. I would

like to hear some comments, perhaps, from other members about how they feel, whether they feel comfortable with having this deadline hanging over us at this time. This is my feeling right now.

**Mr. Charlton:** It seems to me that if we take a serious look at the resolution in the green paper, the job that has been laid out for this committee is rather extensive and probably fairly long in term. It seems to me that the kind of schedule we should be looking at right now, considering the June 1 deadline, is a schedule where we can deal as quickly as possible with the rent review question because of the December 31 date; and the need for some kind of legislation probably before the end of September, because that's when the landlords have to start giving notice of rent increases for December 31.

We should be setting out a schedule that will deal with rent review so that we can report on rent review before June 1 and ask the Legislature for some kind of an extension to deal with the whole topic of long-term rent review, landlord-tenant, and housing. That's a pretty broad topic that we are going to need a lot of expertise and a lot of discussion on. What we should be looking at is reporting on rent review before June 1 and then asking for an extension for the whole question of the things that have been laid out in the resolution and in the green paper.

[11:00]

**Mr. Duszta:** I was struck by what you were saying. Just looking at the resolution and just looking at affordability of rental accommodation, I think that involves virtually months of work and months of presentations and so on. If we took it completely seriously, we would have no option but to extend this and make it into a select committee and go on doing it. I don't know whether the government wants to do it or not. It sounds very exciting to examine the housing field but can we really do it over a period as short as two months or seven sittings if we don't consider today's organizational meeting? The best thing for us to do is to limit ourselves and start with the rent review, as Mr. Mancini has suggested, proceed with this, and if there is time left do the other stuff. We may discover that just to hear some people on both sides of the question will take us a long time. If we agree to that—and I'm not sure yet if we agree to have people come in here—it will take us some time.

We may even have to do an interim report or something like that on the question which is the most important, and clearly Mr. Welch's resolution is that we must deal with it as soon as possible. Let's not be too enthusiastic. As much as I would like to do the whole housing field, because that sounds very exciting and perplexing to many people, we should limit ourselves to just doing the rent review.

**Mr. Epp:** I essentially agree with the parameters that the speakers have tried to put forth for the committee. I think we should deal with the resolution as it's before us in the next eight weeks. It's a little premature at this time to make a decision about what we should do after that, but it may become more evident in the next eight weeks as to whether we should ask for an extension of our terms of reference to extend it into this summer or next fall or whatever we should do.

Essentially I think we should deal with what's before us and then discuss sometime in the future our options as to affordable housing and whatever.

**Mr. G. E. Smith:** I agree with what has been said. I think that we should deal with rent review or the resolution as it now stands and has been referred to us. Before we end our eight weeks we can make some decision as to where we go from there.

**Mr. Chairman:** Can I just throw out this thought? We have eight Wednesdays, not counting today, so we actually do have another eight. If we could agree that six were to be devoted to rent review and two to landlord and tenant, then when we do talk to the counsel from the Attorney General's office—and we could talk to him tomorrow—we can tell him that on the last two Wednesdays—and it's only going to be for 10 hours—we're going to have to try to cope with landlord and tenant things. They could then begin to do some work on that now. That would still be subject to change later on, but we've got six clear Wednesdays ahead of us on just rent review. Someone else can be doing some background work for us on landlord and tenant. Then we would try between now and June 1 to be able to get our report done. Does that seem reasonable?

**Mr. Warner:** Yes, that seems quite reasonable to me. It would be important, if we're going to set aside the last two Wednesdays to deal with landlord and tenant, for us to ask the Attorney General's department what work they have been doing. Are there any sorts of studies they have been doing? Have

they been reviewing the legislation? I just don't know what they've been doing. I assume that they probably have.

We could indicate to them what our schedule is and that we anticipate—we don't know for sure—dealing with the Landlord and Tenant Act on such and such dates for two days and ask them would they be prepared to present to us prior to those dates whatever work they have done and whatever suggestions they may have made to the Attorney General, and would they be prepared to comment to the committee on those two specified dates.

I think that would help because if they have done some work we would have that in advance of those two meeting dates and the committee members then would have a chance to peruse the material before the actual date when they're coming before the committee.

The other thing, too, is that if we set aside the six Wednesdays, we know we have to reach a conclusion and have recommendations for the government by that sixth week. The June 1 deadline was put in there for a reason, and the government will be hard-pressed, it seems to me, to be able to take the conclusions and work out the appropriate legislation in the interim between June and September. That's a lot of work; I appreciate that.

Therefore, if we can end it even two weeks prior to that, so two weeks before June 1 we've got some conclusions from the committee and we can forward them to the government; I think we will be doing them a service as well in terms of what preparatory work they need to do for legislation. I think that's a reasonable way.

**Mr. Walker:** Mr. Chairman, are you suggesting that we devote the sixth Wednesday as a day to consolidate the information that we have and basically to present our proposals as a result of that day's discussions, with the intervening five Wednesdays to be devoted to brief-taking?

**Mr. Duksza:** The remaining two Wednesdays we spend on the other matters.

**Mr. Walker:** For the balance. That raises a question, because obviously we don't know exactly how many briefs or delegations we will hear. But I think there could be some value in making the point to prospective brief presenters that they present them sufficiently in advance and that we then have an opportunity to peruse them prior to their arrival. Then when people arrive, we'll have a chance to examine them on the basis of what they've presented, rather than sitting



there and listening to a person methodically go over his 10,000-word brief. It's so much quicker, of course, for us to be able to read the briefs in advance and then ask questions that arise as a result of them.

I'd like to suggest that as an approach, if it's at all feasible, in the next five Wednesdays. I suppose there will be some form of advertising that will occur, inviting briefs from around the province. That type of an approach might also make it easier for some people who might otherwise have come down here with a brief from Sault Ste. Marie or Ottawa to decide, "Well, I think we can forgo the pleasure of appearing before the committee. We've got our brief in front of them."

**Mr. Chairman:** Further to Mr. Warner's point, I think one of the frustrations around this place is that you can sometimes be doing work in a committee and you find that duplicate in one of the ministries is doing duplicate work.

I think it would be useful to explain to the people in the Attorney General's office that we will be doing some work here on landlord and tenant matters. Let's get them to gather up what, if anything, they've got and provide it to us now—it's going to be some weeks before we'll be talking about it.

In the same vein, I think it would be worthwhile if we could indicate to Housing what our timetable looks like, because they may well have some work in progress—I don't know—dealing with the rental part of the thing.

It would be helpful if we could just find out what is happening in Housing and the Attorney General's office. We know what's happening in the other ministry.

**Mr. Makarchuk:** Mr. Chairman, in looking at the mechanics of running the committee, and assuming you decide to follow the green paper as it is structured—if you look at the first chapter, "The Development of Rent Review," it deals in part with the structure of the rental market—in effect, what the committee would do is, we would perhaps ask officials of the Ministry of Consumer and Commercial Relations to make presentations to the committee, and the committee members might question them to a certain point. But in terms of sort of getting in-depth understanding, or perhaps other views or some other analysis of the structure of the rental market, then the committee will be forced into the position where they may have to hire some other people to give us a different analysis or a different view on the situation. Again, we get back to that time-bind; that is the concern.

If you look at the market conditions prior to rent review, the cost-revenue imbalance, the rental environment in 1975 et cetera—all those things, it seems to me, can be developed to a great extent.

I don't think the committee is prepared to rubber-stamp anything. I think the committee is seriously considering looking at all aspects of this matter. I feel that the committee itself probably is limited in terms of the expertise that exists within the members of this committee to be able to understand or perhaps comprehend what everything's all about. My concern, of course—what it really gets down to—is that we may have to hire people who know something about it, in which case the time delay is involved; and if we have the six weeks, it appears to me it would be impossible to try to do an adequate job in that period of time.

**Mr. Warner:** I took it to be somewhat of a consensus of the committee, Mr. Chairman, that we start with the present rent review legislation. We can take a look at it, examine it carefully, try to make our suggestions and reach some conclusion; and then move on to the Landlord and Tenant Act. During that process, if it appears to the committee to be necessary to extend its work, and to go into far greater depth and that we should be retaining consultants and so on; if obviously at that juncture we need to have an extension, not necessarily for the purpose of the Landlord and Tenant Act or for the rent review program but in terms of the broader question that is outlined in the paper, I think we should make that decision when the time arises. I don't think that's today. I think that will become apparent to us as we get into our work. If we need an extension and if we wish to ask the Legislature to grant that extension to deal with the broader question, so be it. I assume from the presentation that the important thing for the government is that we have recommendations with respect to the rent review program by June 1.

**Mr. Chairman:** Yes, I think that's right.

**Mr. Warner:** That is the priority for the government, I take it. I don't think that anyone expects us to solve the entire housing question in the province of Ontario by June 1. At least, I hope not. That seems to be the consensus of the committee.

**Mr. Chairman:** I haven't had as much experience as a lot of you have had around here and the analogy with another committee wouldn't always hold. On that select committee on Inco we could have talked for literally a lifetime and we could talk about just the specific points in this resolution



literally for a lifetime. On Inco we had 60 days to try to do something with, while here we've got 40 hours. I think that at the conclusion of that time whether we request additional time or not, we should look at that at the end of the period.

**Mr. G. E. Smith:** We were discussing a few moments ago the submissions or the briefs that would be suggested or would be presented to the committee. We could be considering them prior to the people coming in person. I'm wondering if the committee might consider the possibility of suggesting there be some limitation on the lengths of the briefs. I think that certainly the points can be made in a concise manner rather than having lengthy briefs that we have to wade through and maybe miss some of the points.

**Mr. Chairman:** Let me just throw this out. I think we've got a consensus that we will devote the next six Wednesdays to the question of rent review and the last two Wednesdays to the landlord and tenant aspect. On the question of who then should appear—just help me on this—what do you see happening next Wednesday at 10 o'clock? Who the hell do you see in this room?

**Clerk of the Committee:** First of all, are you going to advertise?

**Mr. Chairman:** Let's decide who we think should be here and then advertise.

**Clerk of the Committee:** If you advertise, are you going to have anybody here by next Wednesday, because it wouldn't go into the papers in time to have a lot of response? It's awfully costly.

**Mr. Warner:** If we decide to advertise in the weeklies, we have a problem too, because the ad won't go in until next Wednesday. I think it's necessary to advertise in the urban centres. I think we've operated on a population cut-off previously for towns or cities of a certain size.

**Clerk of the Committee:** Yes, we did that with the justice committee and it still costs about \$20,000.

**Mr. Duksza:** It is not a luxury. It is an essential part to get feedback from the community at large. It's not something for which we can be blamed spending money badly. It is essential.

**Mr. G. E. Smith:** It will cost a lot of money.

**Mr. Walker:** Landlords and tenants, by and large, are associated with some form of organized group. Would it be more logical to send a letter to each group, if it is possible to identify them; and I don't know that? There might be some areas where we can.

[11:15]

**Mr. Warner:** We've got a problem in first of all trying to identify the groups accurately. Secondly, of course, in terms of tenants there would be all kinds where there is no association of any sort. You run the risk that you miss someone. We wouldn't want to miss Cadillac Fairview, and they might have been missed off the list. That's a problem when you go down the list; you could leave somebody off. Do you remember what the population cut-off was? Was it over 25,000?

**Clerk of the Committee:** It seems to me that it was over 5,000. I have it upstairs; I can get it in a moment.

**Mr. Warner:** For our purpose, it may even be more than that.

**Mr. Epp:** It seems to me, Mr. Chairman, that we should have a cut-off someplace and I'm not sure what that should be. I just don't see the sense in advertising in a lot of small municipalities where they don't have any units at all or just a very few. It really isn't a problem there. So, I think it would be a waste of money to advertise in all the weeklies and everything else. I think that we should have a reasonable cut-off without being accused of trying to impede the discussion, but at the same time be conscious of the costs involved.

There is no doubt that anybody who really wants to be involved in this and is concerned about the problem will hear about it. You know, I don't think you have to spend thousands and thousands of dollars to tell people. The ones who really are concerned are going to hear about it anyway. The other thing is that I think that's the most important medium which we should use. I appreciate David's point that maybe there isn't a list or anything else that we can use so that we can send them letters. That would be another avenue if that was available. It probably isn't.

**Clerk of the Committee:** Do you think we should make it communities of more than 15,000 or 30,000?

**Mr. Samis:** 25,000.

**Mr. Warner:** That's what's suggested.

**Mr. Epp:** That sounds reasonable.

**Mr. Charlton:** Just quickly to reinforce what's been said. I think we have to advertise. I think we should be careful where we advertise and how much we spend, but we have to advertise because as David suggested and has been confirmed by a couple of others, there just aren't any lists available. For example, in Toronto there are a lot of regularized tenants organizations. In Hamilton, we have very few. But a number

of groups have been formed on an ad hoc basis to deal with rent review when it was there, such as when the landlord had made an application for rent review. Those ad hoc committees of tenants in that building or set of buildings, or whatever, formed into a group for that purpose but may no longer exist or be identifiable at all.

**Mr. Chairman:** Let me just say first, I think it's worthwhile to first of all maybe identify those people to whom we don't really have to advertise. UDI, for example, you phone them; Cadillac-Fairview and Belmont Property Management—if in fact you want people like that—you phone them or write them. I think we should maybe try to identify how many of those types you want before we advertise because the more you advertise and aren't able to really hear the groups out, we're not going to solve anything.

**Mr. Samis:** I think the chairman had an excellent point there. First of all, you've got to advertise to people outside Toronto. Secondly, 25,000 is an arbitrary figure, but I think that in small towns, if people read the daily they'll get it from a larger community, let's say for a town of 5,000. In Prescott, for example, they get a paper from Kingston or Ottawa and in most cases, if they're regular readers they would have access to it anyway. I do think that we have to make some provision to make sure that the vested interest groups on both sides don't totally dominate the time allotted for presentations, otherwise we're just going to hear from the same people all the time repeating the same thing. If someone has to come 300 miles here to make the presentation, whether Ottawa or Thunder Bay or Windsor, I think we should make damn sure they do get on.

**Mr. Duksza:** It doesn't need to be written maybe. I was reacting to Gordon's point that if we have to type and write several copies, we may never get some individuals who would be valuable. As he said, not every vested group will be up there. We need some individuals. They may have to do just an oral presentation. We can limit them when they come here. Those things are usually quite short. But we can't possibly have just written, typed and reproduced copies.

**Mr. Walker:** I agree with that. There is room for verbal presentation that has not got a written brief beside it. I like the point that Gordon made that perhaps it should be gently suggested that some number of pages would be more "brief" than others.

We can get a 30-page brief which could be said in four or five pages. You don't like to cut people off but by the same token there is some value in them realizing that the brief is going to be better read if it is five pages than if it is 30 pages. If you have to look at a 30-page one or a five-page one where you see the lightning and hear the thunder, you know you are going to choose the smaller one.

**Mr. G. E. Smith:** Concerning the arbitrary figure for the advertising in the centres of 25,000, I would make a suggestion that we maybe consider 20,000. I suppose this could go on. But the reason I suggest that—and I speak for my own area—I don't have a city of 25,000. However, many county towns—I can think of Orillia, Goderich—there are many areas that have county towns—St. Thomas—that are under 25,000. Maybe we should, if we are going to limit it, say 20,000 as the cut-off rather than 25,000. That is just a suggestion. As someone says the message is going to get there anyway. I tend toward's Herb's suggestion of 25,000, but maybe the committee might consider 20,000 for those reasons.

**Mr. Epp:** In all due respect it was George's first. I go for that, Gordon. I don't see any problem with it.

**Mr. Warner:** I just want to make a brief point. I agree with 20,000. I think it would be simpler for yourself and for the clerk to not get involved in phoning anyone. If the advertisements are in the dailies and the weeklies in towns of 20,000 or more population, the message will be out. Everyone who is interested will get it because otherwise you are going to tie yourself up in phoning. As soon as you phone one person there are two others you think of whom you should call. You avoid all of that. Just put the ad in the paper and the people will come.

I think it is also reasonable to say that it would be appreciated, though not necessary, that briefs be in written form; and if possible that the presentation not exceed 15 minutes. That way you are not making it mandatory in any sense, but you are telling people this is what we would appreciate. Then if we do happen to get the larger brief—something of 100 pages or whatever—we can simply tell the people due to the time pressure we can hear you for 15 minutes. Your brief will be filed and it will be read by each of the members of the committee at some other time which is convenient for them, but we have a large number of people waiting to be heard.



I would assume the committee would also agree to George's suggestion that it is very important that for people who come here from a long way away we make sure they get on the day when they arrive. It is expensive to stay over in Toronto for a week, or to go back and come again. If somebody comes here from Thunder Bay and Windsor they have got to get on and be heard.

The other thing; I think we would probably have to wait until after next week. Maybe we could start next week, I don't know.

**Mr. Walker:** I bet we can get an ad in a good number of papers by Friday at least.

**Mr. Warner:** Is that possible?

**Clerk of the Committee:** I will certainly get it in some of them—in Toronto.

**Mr. Warner:** What about Hamilton, Ottawa?

**Clerk of the Committee:** I think most interested parties are aware and I guess everybody would have briefs prepared—those in this area. Anyway, the difficulty is they are not going to have five days' advance notice, are they?

**Mr. Walker:** The thing is if we discourage the length of briefs it won't take them long to prepare them.

**Mr. Epp:** I guess there are really two points. One is—and you may be dealing with this—next Wednesday, what we are going to do in order to have a meaningful day next Wednesday.

**Mr. Chairman:** I have a thought on that, but go ahead.

**Mr. Epp:** The other thing is, being a new member on this kind of a committee—and Mr. Warner raised the matter of people coming from outside—since we have allotted five hours per day, what happens when 4 o'clock comes? Do we automatically extend it at that or do we say, "Well, how many people are going to be here in the afternoon?" and "We will now give each of you 10 minutes"? How does that operate? Maybe you or somebody else can clarify that for me, Mr. Chairman.

**Mr. Chairman:** I can't. I don't know.

**Mr. Epp:** Do we decide at that time whether we are going to go on longer for the day?

**Clerk of the Committee:** Maybe the committee could establish now the people who are coming. As much as possible we will try to schedule them; if there are 20 people here today, we could say, hear 10 in the morning and 10 in the afternoon. They would have so many minutes.

**Mr. Duktza:** Try not to overlook or to have a very tight schedule. I remember an

experience that was quite disastrous in a sense for those people who had to come and present briefs at the dentist hearings, which finished at 3:30 in the morning. There were senior citizens there, and for one day things were bad. It was an unbelievable experience.

**Clerk of the Committee:** Mr. Walker said if they stand up and read their brief, that is a really blatant waste of time.

**Mr. Epp:** Maybe they can give it to us in capsulized form.

**Mr. G. E. Smith:** Again I would stress the need to have concise briefs, and we should try to stress that, but I am wondering if the committee would agree that it is normal procedure to leave the scheduling to as great a degree as possible to the chairman and to the clerk. Perhaps rather than have people coming in—and we don't want to limit the discussion or their opportunity to appear before us—if we receive submissions or indications from a long distance away—Cornwall or wherever it might be—maybe, to ensure that they do get on, we should have a fairly close schedule of the appearances of the people who want to make personal presentations.

I don't know whether that is possible. I hate to see everybody come in from Toronto, for example, or Hamilton or some place in the immediate area and overload the work of the committee to the exclusion of somebody who has come a distance. Perhaps there is some way the clerk and the chairman could assure the people that they will be heard; and as Mr. Duktza says, not be sitting here until 3:30 in the morning.

**Mr. Warner:** I think it is easy to indicate that preference will be given to people who reside outside of Metro Toronto. That should cheer the hearts of many, George. I think that is important.

In terms of next week, I think there are a couple of things. First of all, if the ad goes in quickly we might very well get some presentations next Wednesday. Also, as a starting point, it seems to me that one group of people who should be entirely prepared and would be valuable to the committee are the people who have been running and administering the program.

By that I mean the rent review officers, the administrative people, Mr. W. M. Robbins, the executive director of the Ontario rent review program, and perhaps the people who have been in charge of the appeals—and I am not sure how many there are of those; I don't think there are very many. I think of Mary Hogan as one; and there are others, but there aren't a great number of them anyway—the people who have been hearing the appeals.



Perhaps we can contact them and say to them, "Look, we are taking a look at the program. We should appreciate your viewpoint on the pros and cons—the flaws in the program." We would like their expressed opinions about the program. We could ask if they could come before the committee next Wednesday. Admittedly a week is a bit short notice, but at least we would stand a chance of those people being prepared, because they have been working with the program for a couple of years. That would give us some breathing space and it would make our work next Wednesday meaningful, I would think. [11:30]

**Mr. Charlton:** There's another thing the committee should probably consider, just referring to the comments about the committee getting overloaded with landlords and tenants from Toronto, Hamilton and surrounding areas here. I know, for example, the landlords in Hamilton have an association. They have already put out some material on this particular question. If, for example, we get briefs from 50 landlords in Hamilton, we can accept the briefs and read them. Perhaps the committee can suggest to them we will give them a little bit longer presentation than 15 minutes, but we want one through their association. Something of that kind of approach, if we get too many from a place like Hamilton; as opposed to excluding somebody who may be the only landlord from Kingston or Ottawa from coming. We should take a look at that kind of procedure if in fact we are getting too much representation from Toronto, Hamilton, Brantford and Waterloo and wherever else is close.

**Mr. Samis:** I think the member for Scarborough-Ellesmere's point is a good one. That's a good place to start—with the people who have been administering the program. But I would tend to think that if we had an ad in on Friday, the vested interest groups would be ready to come in, especially if we followed the suggestions offered by the two Gord's about limiting the written content, and setting time limits as well. Surely they have been considering the issue for the last six months. Surely they knew this was going to be coming up. Surely they are ready to go. I would think we would be ready on Wednesday afternoon for those people if we had the other people in the morning.

**Mr. Chairman:** That makes sense to me, too.

**Mr. Walker:** Remember too, Mr. Chairman, that when they come in, if we have had their brief in advance and if we have

had an opportunity to go through it, as I think everyone will, they do not need to make a further presentation. But it's the committee's option then perhaps to start questioning them on what they have presented. So it's not so much in effect having two kicks at the can; they are not really coming in with a brief first of all to be read and then having another 15-minute presentation. That 15-minute suggestion might be more our own guideline that we follow, as opposed to a public guideline.

**Mr. Chairman:** Back to Wednesday morning just for a second. There seems to be a consensus on David's point, that at least we are covered for Wednesday morning, we are going to have a meaningful two-and-a-half hours if we have someone—did you mean specifically this Mr. Robbins, for example, or—

**Mr. Warner:** He's the executive director and he's made input into this document, I believe, so I think it would be important to have him there.

The appeals officers are probably important as well, at least a couple of them. As you know it's set up so that one appeals officer is from the tenants and one is from the landlord, so therefore it's important to make sure that if we are going to have two or four that they are equally divided. Frankly, I don't know the names of those rent appeals officers other than Mary Hogan. I have heard her name because she operates here in Toronto, but there are others.

Perhaps if we had two appeals officers it would be sufficient, one who is the tenant appointee and one who is the landlord appointee.

**Clerk of the Committee:** They are separated, too, in locality, aren't they? Did you want to do anything about that? They would be in different localities, say eastern Ontario. Do you have to make a decision there, or do you want one from eastern Ontario and one from northern—

**Mr. Samis:** Possibly one from outside of Metro.

**Clerk of the Committee:** Yes, that's what I mean. Not all from Metro.

**Mr. Warner:** That's a good idea.

**Clerk of the Committee:** So one each from Metro and from outside Metro.

**Mr. Epp:** Not that somebody else should establish our agenda for us, but I just thought that Mr. Robbins himself might be helpful as to who could have a meaningful input next Wednesday. If you just spoke with him, Bruce, he could maybe give some suggestions

and give us a breadth of information the first day that we could use later on so—

**Mr. Walker:** He might be a very useful resource person, so for the first few meetings at least he would be here if we wanted to ask him a question, that might be helpful. We may find that after two meetings we don't ask him a single question and he's in effect superfluous, but there may be some value in having him at the meeting. After all, the whole subject of the next six weeks is what he is concerned with directly on a day-to-day basis. He probably has the largest storehouse of knowledge in this whole area of anyone—certainly of any civil servant I would guess. I have never met the man, but that would be my observation of him. I think perhaps we could encourage his setting aside Wednesdays, at least for the first few weeks and perhaps for the next six weeks. There may be some value in having him around as opposed to—

**Mr. Duksza:** Are you looking at him as a resource? Do you really intend to ask him some questions next Wednesday? Otherwise he would merely be in the background, in case you need him. Is that what you are suggesting?

**Mr. Walker:** Yes, I am certainly not suggesting a foreground person. I think by next Wednesday we will have heard all we want to hear from him. But I am prepared to say there may be occasions when he will be helpful or when he will be able to come to us and say "you are hearing only this particular aspect of this. You should invite some people from tenants' associations in Kingston and London and Sudbury if you really want to find out the flavour."

**Mr. Duksza:** I am a bit self-conscious about not using him too much. It sounds more like an estimate than anything else.

**Mr. Walker:** I wouldn't want him sitting at a microphone. I am not saying that.

**Mr. Duksza:** There's some value having people from the ministry, but I think this is a parliamentary committee and maybe—well, definitely for next Wednesday.

**Mr. Warner:** Next Wednesday and then we will see how it goes.

**Mr. Samis:** As long as he is not seen as a replacement for a consultant—

**Mr. Warner:** No, I think that's right.

**Mr. Duksza:** Maybe we should think, if we are going to have someone like that, maybe we should think of some kind of a consultant who is more independent and neutral. In that sense, maybe Mr. Robbins

is not fully so, being part of the existing program.

**Mr. Walker:** You don't want a lawyer, eh? Who is this fellow on Hydro?

**Clerk of the Committee:** Alan Schwartz.

**Mr. Warner:** A lawyer, and Robbins I think—

**Mr. Samis:** We had Fisher a few years ago on a committee and he was pretty sharp on that.

**Mr. G. E. Smith:** I would suggest, Mr. Chairman, that we deal with that after we have our first meeting. We may find that we think we are going to need counsel or professionals sitting in on subsequent meetings. I would say let's play it by ear next Wednesday and if we find that we feel we need extra resources, we can make a decision then.

**Mr. Epp:** In respect to what Gordon has said, this person would be sitting in during the various hearings—this consultant if we had one?

**Mr. Chairman:** Yes, I believe that's how I see it.

**Mr. Epp:** Yes, and I liked Jim Renwick's comments earlier. I thought that they made a lot of sense. I think we should go that route; and I would think that we could maybe agree today as to whom we might hire to do the consulting work for us without going the counsel route. If later on we had to go the counsel route, then we could have that as a supplementary aspect.

But certainly I think there are enough legal minds within the ministry to give us the kind of legal information we need. I would like to see us make a determination today to go the route of the consultant and decide who it is going to be. Then they could be with us next week and carry this thing through rather than come in someplace in the middle.

**Mr. Chairman:** I don't think we need a lawyer.

**Mr. Duksza:** I don't think we can really come to a decision immediately. It may be best to have a consultant, someone who is expert in those areas and considered valuable and neutral, et cetera. But we may have to think of some names, contact them and find out if they are available—because that may be a bit of a problem. If there is only one available, I think we should know something about the individual, whether it's a he or she.

**Mr. Chairman:** This Jim Fisher's name has come up in the past. Canada Consulting I



think is the name of the firm. Some of you may know him. I think he—

**Clerk of the Committee:** He's on the Hydro committee.

Interjections.

**Mr. Chairman:** The only thing I am concerned about is, I do think we should have a counsel in place as soon as possible because obviously they are going to need some lead time too. I do think they should be part of next Wednesday's meeting at least, to hear Robbins and the appeals type people et cetera, right from the beginning. All I am concerned about, obviously, is who the hell do I phone as soon as we break? Or what do I do? How do we work it out? I am going to need some guidance on this.

**Mr. Duszta:** We may have to think of others. I don't know how many of you checked who is available. I haven't called anyone.

**Mr. Mancini:** There is Woods Gordon.

**Clerk of the Committee:** Did you have a suggestion, Mr. Duszta?

**Mr. Duszta:** Yes, I was thinking of Dick Gathercole. I didn't talk to him and I don't know whether he is available. He is both a lawyer and an expert. It's Dick Gathercole.

**Mr. Mancini:** He's a double threat.

**Clerk of the Committee:** And now a suggestion from the Liberal caucus; that would be fair, wouldn't it? Mr. Epp?

**Mr. Epp:** I don't have one.

**Mr. Walker:** Woods Gordon sounds reasonable to me. I don't know about Dick Gathercole. If they have had good experience on Hydro with Fisher—

**Mr. Mancini:** Call them both.

**Mr. Duszta:** But is he a lawyer?

**Clerk of the Committee:** No, he is an economist.

**Mr. Duszta:** I can give you a couple of other names: Mary Hogan and Pat Strike; and I was thinking of Mike Goldrick. Mike Goldrick was an alderman; he did the brief on housing for the city when he was an alderman. He now teaches political science at York. He worked with Mayor Crombie and with Michael Dennis. He is very broad and if he is available we might consider him.

**Mr. Epp:** I'll get some names to you.

**Mr. Chairman:** Okay. So we will think about it a bit. But while you are thinking of adding a name, am I right that I can and should call Woods Gordon and this Jim Fisher fellow?

**Mr. Warner:** Is it our intention today to come back after lunch? If it is then at least give us the lunch hour to think over some of these. I don't want to jump into something.

**Mr. Chairman:** I'm easy.

**Mr. Warner:** The chairman wants to be able to make sure that from the outset next week we've got someone here who is going to be of assistance to us. I think it is extremely important that we have someone who is knowledgeable about the rent review system—I would hope also knowledgeable about landlord and tenant—and who has some expertise in the whole area and, of course, someone who is available. I just don't want to jump into this because it may not be the person that we need. I am not sure that an economist is someone who would be able to look at the matter in the way in which the committee wants to look at it. And if you end up with someone inappropriate, all you do is cause problems for the committee down the road. After a week you find out that the material the chap is producing just isn't worthwhile.

Yes, I was and still am on the company law committee and the consultants there, Woods Gordon, were extremely capable. But that doesn't mean that they could automatically do a first-rate job on this material. Their expertise is obviously with automobile insurance because they have been retained by various jurisdictions and so they have got a history of having done that kind of work. So I would just as soon think about it. Perhaps we could meet for 20 minutes and then come back after lunch and put forward a few suggestions, and then, of course, the chairman has to track them down; none of them might be available, for all I know.

**Mr. Makarchuk:** The idea of hiring a consultant is that first you want him to do something for you. I'm not sure what the hell the committee has decided that it wants the consultant to do for the committee. It seems to me that once you get into the subject matter and the problems come up or there is lack of research or lack of information, then you get after your consultants and tell them, "Okay you provide us with the information on this topic." So you go to a consultant firm right now and you say: "We need consultants for the committee that is considering rent review."

[11:45]

What do you want to consult about? What are you going to tell them? Are they going to write us another report? If that's the decision



of the committee, fine; we could get them to write another report similar to this report if that's the decision. But at this time, it seems to me, the committee doesn't have in mind exactly what it wants the consultants to do for it. I don't know. Maybe somebody could tell me.

**Mr. Duksza:** Maybe you have a point. Maybe we should stick to our own resources, because it is a semi-political, semi-social decision we're going to have to reach. Maybe we don't need outside resources. I'm not persuaded one way or another how much help we need, whether an economist or someone else. I definitely don't think we need a lawyer when we come to this question—no shrinks or lawyers, except when they are politicians. I don't think we particularly need that kind of involvement to hear all the briefs. When I was participating in the health disciplines discussion, I found that we had to listen and we had to make a decision. Everyone else came with their lawyers, their briefs and everything else, and it wasn't as essential to hear it.

Unless he is a very valuable consultant and we clearly know what we need from him and what he could deliver, maybe we shouldn't rush into it.

**Mr. Epp:** I think we should try to make a decision today and, if necessary, come back this afternoon. If we are going to come back just to give additional names, I don't see the need for a meeting. We can phone those names in to you and you can check them out and get back with the information, rather than coming back for that purpose and everybody throwing another name into the hopper.

If we can make a decision today, fine and dandy; but if we have to meet tomorrow for a few minutes, or Monday or something, that's fine.

**Mr. Chairman:** Yes. If we could come back for 15 or 20 minutes after lunch today—

**Mr. Epp:** One other point: I see the consultant as writing the report—

**Mr. Chairman:** Yes. I was going to say that too.

**Mr. Epp:** —and to get the additional information if that is necessary.

**Mr. G. E. Smith:** Mr. Chairman, perhaps you and/or Mrs. Nokes could call at least the two or three that we have suggested, or whatever it might be, or any other suggested names. If Mr. Epp or any other member has any suggestions, they could call you and maybe you, in turn, could contact the firms or individuals suggested to see what experience they have had in the field, whether they

would be suitable, whether they are available and, I suppose, what their charge would be. Maybe then we could meet back here at, say, 2 o'clock for a half an hour or 20 minutes and come to some decision.

**Mr. Warner:** If we have a couple of names and neither of them is available, then we know where we stand.

**Mr. Epp:** Can I just suggest the meeting be a little later? I don't think he would have the time to get that information, because a lot of them will be out for lunch. Maybe it should be at 3 o'clock or 4 o'clock, just to give him adequate time.

**Mr. G. E. Smith:** Not 4. Can you make it 3?

**Mr. Epp:** Three? Three is fine.

**Mr. Duksza:** Three o'clock.

**Mr. Warner:** There is one other thing I would like cleared up, and I think we should be able to do it for next Wednesday; that is, have there been any reports—annual, semi-annual or whatever—from the rent review officers to the ministry or to the director involved in the program? If so, the committee would like to have a copy of those reports—evaluation reports of the program. The program has been in place, with some modification, from 1975 until now; and I would think it reasonable that the rent review officers have probably done an evaluation, or several, along the way. Could we have those evaluations?

Secondly, could you ask the minister—I think we probably should send a letter to the minister asking him for copies of whatever evaluation reports he has received from his director, Mr. Robbins. Could we have a copy of those evaluation reports for next Wednesday? That, along with the people who have been administering the program, would be a good place to start. We'll know what the evaluation has been by the people who have been working in the field. That would be my suggestion. Obviously, it requires the approval of the committee. That's one of those "papers or things."

**Mr. Chairman:** Are there any comments on that?

**Some hon. members:** No.

**Mr. Chairman:** Then it's agreed.

Can I just throw out one thing that might be for Wednesday morning? I confess it's my own background—I used to be in the investment business—that makes me throw this out. I tried it on the Inco committee without success.

Some of these major real estate companies are public companies; Cadillac Fairview is

one obvious one. I suppose it's the largest apartment company in Metro, at least.

In the investment business, there are little people who spend their lifetime analysing public companies. They analyse them so that when they talk to pension funds which may decide to buy or sell the damned stock they've got something to go on.

Frankly, I have two or three fellows in mind. I wanted to ask you if it was okay to ask maybe one of them to come up here and give us his two cents for 30 minutes. It would be just on the straight, hard economics of what it would cost to build a unit today; what it used to cost—blah, blah, blah. If you think that's useful and I personally do, it would provide some straight economic background.

In the Inco committee I wanted to get a couple of these Inco analysts, of whom there are about 20, to talk to the Inco committee first for an hour or two. We didn't end up doing it that way. We had another chap who was a consultant, but I don't think it mattered that much. I think it would be useful.

I'll tell you one thing. I'm going to do it myself, even if it's just at night and I sit and have a soup with the guy downstairs, because from my point of view, just being on this committee, I think it's absurd of me not to take advantage of some of these characters who would come up and for a bowl of soup would talk for an hour about something they talk about all day.

**Mr. Dukesza:** Maybe such a presentation would be better when we get to the general field of housing. You're quite right, you should have some information.

**Mr. Chairman:** The chaps I am thinking about are ones who fret and worry about costs of material, labour and money today, and what you have to get by way of rent to get a reasonable rate of return for today's investments—those kinds of things. I'm no economist. I'm no expert on this. But all I'm saying is that I do know some people who are and I think it would be a good half hour.

**Mr. Dukesza:** Well, if someone wants to make a presentation I think—

**Mr. Chairman:** That's all I was thinking of.

**Mr. Dukesza:** I still think it probably fit better into the other category.

**Mr. Chairman:** We may end up with a clunker, but is that okay?

**Mr. Warner:** It should be a presentation like anyone else. I don't see any problem with it.

**Mr. Chairman:** On Wednesday morning for 30 minutes or something like that, because it does look like we might have—

**Mr. Epp:** We can have him next week.

**Mr. Chairman:** Yes, I thought he would be first and then we would have him out of the way.

**Clerk of the Committee:** Before the committee adjourns I'd like to make sure that I get this ad all right. You people want me to say in the ad that the briefs should be limited and the time—this won't get anybody into any trouble?

**Mr. Dukesza:** Short and sweet.

**Mr. Walker:** Brief and to the point. I would say not over five minutes or 10 minutes.

**Mr. Warner:** Earlier I suggested that we simply indicate that it would be appreciated if the briefs did not exceed 15 minutes, if it's a presentation.

**Clerk of the Committee:** If I put an ad in the paper I've got to make everything clear.

**Mr. Walker:** Yes, but they're not making a presentation to us.

**Mr. Warner:** Gee, I don't know if you can put a limit on it. If somebody wants to mail in a 100-page brief, fine, I'll read it.

**Mr. Epp:** Yes, but we should ask them to keep it short and to the point. I wouldn't put a limit on it, because what happens when you put a limit on it is that the people who were originally going to put in a five-page brief, when you say 15 pages they feel they should have to extend that to at least 12 or 13 pages. I'm not trying to be facetious or anything. I think that psychologically they say, "Well, 15 pages is the limit. Maybe we should just keep it under."

**Mr. Warner:** How about simply saying "a concise brief or presentation"?

**Mr. Walker:** Maybe with a list of the points they may want to make.

**Clerk of the Committee:** Within a 10- or 15-minute period.

**Mr. Dukesza:** I wouldn't put it that way because if someone comes with 100 pages they know they're going to read 100 pages. Presumably, we can let them talk for a few minutes, and we question them. If they give the information to us a week before, we read it, otherwise it has to be read later.

**Mr. Samis:** Are you going to have some stipulation that the briefs have to be in in X number of days before they appear?

**Clerk of the Committee:** I think we should try to say that they have to be in ahead of time.



**Mr. Duksza:** Sometimes it might be a verbal presentation which they cannot get—

**Mr. Samis:** Why don't we see if we can get it Wednesday morning, for example?

**Mr. Duksza:** I've been on so many committees that I don't think it's possible for people to have it written well before the date.

**Mr. Warner:** We'll have to rely on the mail system too, especially for the first day.

**Mr. Samis:** For the first week especially but how about after that? Can't they deposit at least 24 hours before the opening session?

**Mr. Duksza:** When there are five people waiting to present briefs to you you don't have time to read anything. At least, that's the way I've always found it.

**Mr. Samis:** If they keep them brief, but they don't.

**Mr. Walker:** Mr. Chairman, I just want to draw to the committee's attention that I'm a distant landlord in the sense that I own a five per cent interest in a row of townhouses. I don't know how many are in it—something like 83 or 87. I mention it just so the committee is aware that I have some area of interest in that. I have no participation in the management or anything else. I wouldn't have a clue as to how many are even rented, I'm that far distant away from it.

For me it's something called an MURB, which is a federal government tax write-off. I own a five per cent interest in it, so if I present certain views you will realize that there is a certain other aspect to that. Just so the committee is fully aware of my own involvement, I have only seen the place once, having driven by it. It's in Sarnia. I just wanted to make sure the committee is aware of that.

**Mr. Chairman:** I own nearly five per cent of my own house now, what the hell.

**Mr. Walker:** Mind you, there may be people here who are tenants.

**Mr. Epp:** I don't see that as a problem, really.

**Mr. Warner:** You have a conflict of interest.

**Mr. Makarchuk:** I also used to be a landlord. I used to rent the second floor of my house, but that's in the past.

**Mr. Warner:** We don't own anything.

**Mr. Chairman:** We are coming back at 3 o'clock. We're going to try to have a rough ad ready by then. If I'm correct, we are going to inform someone in the Attorney General's office to start thinking about landlord and tenant for the last two sessions.

**Mr. Warner:** Send him a letter.

**Mr. Walker:** Do you want Hansard through all this? It seems to me it is a somewhat useless exercise to have Hansard. We'll have six or eight weeks of brief taking there that I think will bungle the Hansard operation and be of little value to them.

**Mr. Warner:** Did we have a motion?

**Clerk of the Committee:** Yes, it was a resolution.

**Mr. Warner:** Is it in the standing orders?

**Clerk of the Committee:** Yes.

**Mr. Warner:** It is?

**Clerk of the Committee:** It's just at the very end of it, that the committee be recorded, transcribed and printed by Hansard. That must have been a decision by the House leaders.

**Mr. Chairman:** I was just thinking for this afternoon that we'd just make a statement.

**Mr. Warner:** We don't require Hansard for this afternoon.

**Clerk of the Committee:** No, but to do without it entirely you would have to—

**Mr. Chairman:** Okay, we'll get back here at 3 o'clock and then we'll decide what consultant we'll have.

The committee recessed at 11:57 a.m.

## SPEAKERS IN THIS ISSUE

Charlton, B. (Hamilton Mountain NDP)

Duksza, J. (Parkdale NDP)

Epp, H. (Waterloo North L)

Makarchuk, M. (Brantford NDP)

Mancini, R. (Essex South L)

McCaffrey, B.; Chairman (Armourdale PC)

Renwick, J. A. (Riverdale NDP)

Samis, G. (Cornwall NDP)

Smith, G. E. (Simcoe East PC)

Walker, G. (London South PC)



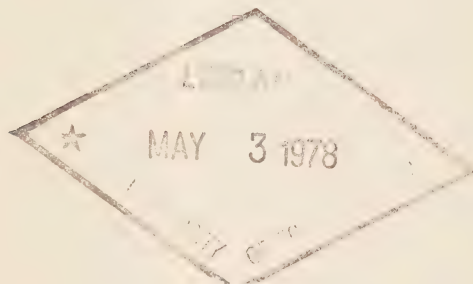


# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



**Second Session, 31st Parliament**

Wednesday, April 12, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

WEDNESDAY, APRIL 12, 1978

The committee met at 10.30 a.m.

### TENANT PROTECTION

(continued)

**Mr. Chairman:** I see a quorum now, so we can begin. I have a couple of housekeeping matters to deal with quickly, if I may. Everyone on the committee now should have a resumé of one of the three consultants or consulting firms, which we discussed yesterday morning. It would be wise, because we have a full morning now, at 1:30 when we reconvene to address ourselves to the consultant to this committee. Does that make sense? I don't think we have time this morning. There are a number of people who have been requested to appear and have been waiting already for half an hour.

**Mr. Warner:** I have just a quick question on that. I was left with the distinct impression from the last meeting that there was some general agreement on two individual consultants and what we needed to do was to confirm that those two consultants were agreeable to working with each other and that both of them could begin working almost immediately. My impression was that all we needed to do was to confirm that both Mr. Feldman and Miss Streich were able to work for the committee and were willing to work together. Is that correct? That was my understanding.

**Mr. Breithaupt:** There are more members of the committee here now. I don't know if they've all seen this. I don't know if those who were here had that view. We could find out, I suppose, from the members who are now here what their views are. Then we can get on with it.

**Mr. G. E. Smith:** I would concur with what you're suggesting. We could conceivably make the decision after lunch as to the final selection of the consultants rather than take up the committee's time at this time when we have witnesses here to appear before us. I would agree with you.

**Mr. Chairman:** Everybody now has resumés for all three of the parties. That was not the case yesterday. A representative from each caucus—Mr. Epp, Mr. Warner and Mr. Walker—each has a file of those briefs that were submitted to Mr. Grossman's ministry

following publication of the green paper. In the future, we can undertake to make copies for everyone but it just seemed prudent, given the time constraints, that we make one file available to each caucus.

If we can proceed, I'd like to ask Mr. Bill Robbins to come up to the front, take a microphone and introduce the people whom he has brought along with him. Mr. Robbins, as you know, is the executive director of the rent review program. He wears two hats, in effect, in that he was chairman of the committee that prepared the green paper.

**Mr. Warner:** Mr. Chairman, before we begin, I have a matter of principle I'd like to put forward as a motion to the committee. I move that, in view of the complex nature of the housing market, the diversity of factors affecting the availability of affordable housing and the need for tenants to have legal protection against increased rents, this committee agrees to instruct its consultants to examine fully the present rent review program and all other pertinent documents with a view to suggesting ways in which the present program can be improved. Further, the committee agrees to report to the Legislature, Thursday, April 13, 1978, that regardless of what changes may be found necessary, it is essential to maintain a rent review program in the province of Ontario so long as there exists a shortage of affordable housing, noting that a completely thorough examination of the housing industry, followed by detailed suggestions as to the operation of that industry, simply is not possible by June 1, 1978. I have a copy for the table.

**Mr. Walker:** That matter is out of order. Our terms of reference have been presented here on page 88 of the orders of the day and we're bound by those. It is quite clear that what Mr. Warner brings up is out of order. The purpose of the committee is to come up here with recommendations that relate to the whole question and to accept the motion as presented is an effrontery to the House.

**Mr. Warner:** Mr. Chairman, on the point of order, I take it from the instructions that were given to the committee by the assembly that we were to deal with various items related to rent review. The committee was to deal with the items. The business has been



given to the committee. At our first meeting, we agreed we would spend the first six weeks dealing with the question of rent review and the latter two weeks with the Landlord and Tenant Act. Then, from there, we would have to decide on how to approach the housing aspect. That was by agreement of the committee.

The committee had then set out what it was that it wanted to do and in what order. My motion this morning simply says that, with respect to the rent review section, it is important that this committee recognizes, and reports back to the Legislature what it recognizes, that rent review must remain as a protection to tenants. We're going to try to fix up whatever faults may lie within the program and to make a basic statement of principle back to the House so that everyone understands, the public of Ontario understands, what the Legislature is trying to do and that the Legislature is not trying to remove protection from tenants. So I would take it that my motion is entirely in order and in keeping with the directions given to the committee.

The chairman may want to review those directions, but I think it's fairly clear in the order that was given to us.

**Mr. Sterling:** Mr. Chairman, as only a substitute member on this committee today, and not having gone through your previous meetings, I had understood that you hadn't heard any substantial witnesses on this matter. Also, I would like to know whether or not the Chair had notice of this motion prior to it being presented a few moments ago. I think it's of a fairly substantial nature and that it draws conclusions of what this committee is all about, as I understand the committee. I would certainly like to insist on whatever rights I have, or the members of this committee have, as to notice on this particular motion. Was this motion given to you two hours prior to its presentation?

**Mr. Chairman:** No, it was not.

**Mr. Warner:** To the point of order, I think the Chair realizes as we all do that notice of motion is not required in committee. That pertains only to amendments and it is an understood agreement pertaining to amendments which are to be filed with respect to bills being debated in the assembly. Such agreement does not apply to committee structure where amendments may be raised at any time and motions may be put forward without prior notice being given.

**Mr. Breithaupt:** I agree with the point that the motion can be made in committee without a notice. Are you prepared now to rule as to whether this motion is in order,

following the comments that Mr. Warner has made?

**Mr. Chairman:** My concern has nothing to do with the timing of the motion—and I say this kindly. It's presumptuous in the sense that it announces today a decision which this committee, by resolution of the Legislature, was set up to spend eight weeks on. We have been concerned—all of us, I think—with the limited time we have to look into this complicated matter; hence, the six weeks on rent review and the two on landlord and tenant; hence, the desire of everybody here to move along fairly quickly with the people who have made themselves available to the committee.

It just strikes me that the motion, which says the committee agrees to report to the Legislature Thursday, tomorrow, and that regardless of what changes may be found necessary it's "essential to maintain a rent review program in the province of Ontario" is, I repeat, a little presumptuous. The green paper, which it is our mandate to look at, sets out four major alternatives. One of course is that the rent review program continue on. But I think it is a little early in that we have not begun our hearings to send out press releases or motions or orders of this nature.

It also presumes—and I think this I find most distasteful—that there are people on this committee who would be here with a view to doing other than protect tenants in Ontario.

**Mr. Warner:** Before the chairman could possibly rule my motion out of order, I would simply bring to his attention that I think it's extremely important to this committee to allay the fears of the more than one million or two million tenants in the province by indicating very clearly that this Legislature has no intention of removing protection from tenants. Because there is some misunderstanding or lack of knowledge out there, I think it's incumbent upon us to make that very clear statement to the people of Ontario.

In what form the rent review will remain in place, we don't yet know. That's our job. That's what we're to find out and we're to report back no later than June 1. But I think it is incumbent upon us to make that very clear statement to the people of Ontario, that tenants will have a form of protection and we're going to find out how to improve the program. We are under some time constraints to do that. I don't need to explain the legal ramifications because of the December 31 termination and the backup and so on, and legislation being prepared.

[10:45]

You now have a copy of the motion, I believe, and I would ask that you would peruse it carefully. You may want to set it aside to deal with it later on before we break at 1:30; whatever the Chair wishes. I certainly don't feel at all pressured to have it dealt with immediately. If it would help the Chair at all I'd be quite happy to have it sit with the Chair until we adjourn for lunch and have a decision rendered perhaps just prior to us breaking at lunch.

**Mr. Breithaupt:** Mr. Chairman, I would ask you to rule whether the motion is in fact in order so that it can be spoken to or not, depending on your ruling.

**Mr. Chairman:** I think the motion is not in order. I would make a ruling that the motion is not in order.

**Mr. Epp:** Let's proceed with the business.

**Mr. Warner:** A point of privilege, Mr. Chairman. I would appreciate it if the Chair could give me a reason for its not being in order.

**Mr. Chairman:** That's a good question. I am as sensitive as everyone in this committee to the concerns or fears, as you put it, of the tenants in Ontario. I know those fears are going to be allayed quickly when this committee gets to work, and I think the sooner we do, the better we'll be able to alleviate the concerns of all people who are affected by what we will decide—tenants and others—by getting to the matter at hand. I think we should move along forthwith.

**Mr. Warner:** My motion won't allay their fears? Okay, all right.

**Mr. Chairman:** Mr. Robbins, would you be good enough to introduce yourself, sir, and the people with you. I'm sorry for the delay.

**Mr. Robbins:** I'm Bill Robbins. As the chairman mentioned, I come with one of two hats ready to be put on—one hat as executive director of the rent review program and the second hat as chairman of the group put together to be author of the working paper. I no longer refer to it as a green paper with a red cover. I just like "working paper."

**Mr. Epp:** We like the colour though, Mr. Robbins.

**Mr. Robbins:** Also seated at the back is the chairman of the Residential Premises Rent Review Appeals Board, which is a separate organization. It's the board to which a tenant or a landlord who's dissatisfied with the rent review officer's decision makes an appeal to have that decision changed. It's my understanding that Mr. Batchelor, and the two members of his staff with him, will follow us later on this morning.

I have with me three members of my staff. On my far left is Mr. Hayes, who is the director of the program operational support branch. It's the unit in my organization that supports the rent review program, both technically and administratively. Beside me is Gerry Cross, who is the legal adviser to the program, and on my right side is Mr. Dick Downey, who is one of two regional directors with the program. Dick is responsible for, in rough terms, Metropolitan Toronto and the southwestern part of the province, and I believe has some 12 rent review offices that report to him. The other regional director is on vacation and out of the country, and so was unable to accompany me here today.

I might mention we have sent some material down, following establishment of the committee. We've sent a few copies of the working paper. We're very short on copies but we've ordered a reprinting of it and I'm hoping the paper will be available in larger quantities by the end of next week and perhaps the committee might want some additional copies. We've only forwarded about 50 of these to date.

We also sent a copy of the press release that the minister made on February 10, the day the working paper was released. The minister tabled in the Legislature on Monday, I believe, a copy of the program's 1977 annual report. The 1976 annual report of the program was tabled in the Legislature as part of a compendium to amendments to the Residential Premises Rent Review Act, which took place last April. The critics of the parties had copies of it, but we are now photocopying that this morning and there will be additional copies for members of this committee later on today.

We have also sent down a number of news clippings that we have more or less been saving for you. These news clippings are comments on the working paper or the concepts within it. Finally, as was mentioned by the chairman this morning, we've sent down all the submissions with respect to the working paper that we have received to date since it was released on February 10. I suppose from time to time we shall continue to receive these even though the committee has been established and we have arranged with the clerk of the committee to continue to photocopy these and forward them to the committee.

We come here without really knowing exactly what it is you're going to follow through with today, whether it be specifically related to the rent review program or specifically related to the working paper. We stand



prepared to attempt to answer any questions that the committee members may have.

**Mr. Chairman:** Are there questions for the four gentlemen with us?

**Mr. Walker:** It might be helpful if Mr. Robbins went through the Act and went through in some more detail the various matters that are basically within his jurisdiction. Some of the members of the committee have arrived since the passage of the original Act and were not in a position to participate in the original debates. It would be helpful for myself and perhaps others if there were to be some form of clarification of his approach to it and how he sees the Act.

**Mr. Robbins:** In introducing that, I might just wave a few documents in front of you, which I think are well worth reading. They're much more complete than anything we can say this morning in a few minutes. We have one little booklet entitled, "Rent Review—These Are The Facts." It's a revised copy of an earlier booklet with the same title. The earlier booklet simply contained the original Act and had some questions and answers.

This booklet was revised with the intent of telling the layman or someone coming into the rent review process for the first time what his rights are in general terms under the legislation and how the rent review process works. It's a booklet that's been particularly well received by tenants. I think it's well worth reading to get informed about the process in a short time.

**Mr. Hall:** Where is that available?

**Mr. Robbins:** I can make these available to the committee.

**Mr. Hall:** I'd appreciate it if you would.

**Mr. Robbins:** A more technical document is "Guide to the Cost Revenue Statement" and the cost revenue statement itself. This is a document produced for both landlords and tenants. It sets out the rules of the rent review game. It contains the formula for determining a rent increase and the principles used by a rent review officer or a board member in determining a rent increase. It's a more technical document, but for anybody interested in getting down to the nuts and bolts of the operation, they're in there. It lays down the principles.

**Mr. Chairman:** It would be useful if we could have that as well.

**Mr. Robbins:** Right. Then there's the Act itself. There was some doubt in the debate in the Legislature as to the premise upon which the Act was based. That premise was

based on not only the election campaign that preceded the Act and which showed during the campaign the need for some rent controlling procedures, but also on a request by the federal government to all provinces to introduce legislation to control rents in support of the federal government's anti-inflation program.

I have here an excerpt from the federal government's attack on inflation, which was the policy statement tabled in the House of Commons by the Hon. Donald Macdonald on October 14, 1975. It gave birth to the anti-inflation program. That document requested provincial governments to undertake responsibility for implementing a program of rent control, based on the following principles: (a) increases up to a certain percentage would be permissible; (b) increases above this percentage must be justified on the basis of increased costs and (c) new structures where rents have not yet been established would be exempt from control for at least five years after completion of the building.

The program which the Ontario government established did precisely that. It followed each of those three points. The program that was set up had a ceiling rent—at that time, it was eight per cent—and any landlord could increase rents up to that percentage without having to come to rent review. If he wanted an increase beyond that, by law he had to come to rent review. He would be breaking the law if he instituted an increase above eight per cent without coming to rent review. That ceiling was subsequently revised down to six per cent on October 27, 1977.

New structures are exempt as requested by the federal government. In Ontario they are exempt for longer than five years. They are exempt completely from the legislation. I think the rationale for that was that it was not envisaged that the Act would stand for anything like five years. The original legislation was to terminate on July 31, 1977, which would have meant the legislation would have governed a time period of approximately two years, from July 1975 to July 1977. Even though the legislation itself was only in existence for a number of months under two years, it was made retroactive.

Broadly speaking, the parameters of the legislation are that there is a ceiling, currently of six percent, up to which a landlord can institute a rent increase. Beyond that, he must come to rent review. There is a basis in the legislation upon which to appeal the original decision of a rent review officer to the appeals board. The appeals board looks at the case in a de novo fashion, that is, it looks at it



without having looked at what the rent review officer did. New evidence can come in; the landlord can state a different case; the tenant can enter a different brief. They look at it afresh and without the benefit of the thinking of the rent review officer before them. The rent review officer or his documentation does not get transferred to the appeals board.

Because the Act governs both cases that don't come to rent review and cases that do, I'd like to put into perspective the ratio between those that do and those that don't. The Act has greatest impact by far on cases that don't come to rent review. We see a very small proportion of the number of tenancy agreements in the province. In other words, most tenants in the province are receiving increases of six per cent or less. We see the exception rather than the rule.

In the working paper on page 17 there are some operating statistics on the program. I'd like to run over those. Under the red heading on the right-hand side, "Rent Review Operations," it says the Act became law on December 18, 1975. In its first year of operation at December 31, 1976, we had something of the order of 271,000 applications. Those 271,000 applications involved rent increases not only during the period from December 18, 1975, through to the end of 1976, but also governed the retroactive period back to July 31, 1975. That governed some 17 months' worth of rent increases.

[11:00]

**Mr. Walker:** Excuse me. Does the figure 271,614 applications mean units?

**Mr. Robbins:** That means units.

**Mr. Walker:** So one application might be 300 units.

**Mr. Robbins:** No, one application per unit.

**Mr. Walker:** One hearing might have 300 units.

**Mr. Robbins:** One hearing, that's right. One hearing has in general a number of units that are in the same building that have the same lease term. The 271,000 applications were grouped and heard in rent review, resulting in 9,412 hearings.

The first year of operation was a very heavy year. There was a great backlog. I could spend the rest of the day or the next eight meetings telling you about all the exciting things we did during that period of time, the difficulties we had and some of the fun we had doing it, but it has changed considerably. If you skip down to the third paragraph under that same heading, for 1977 the aggregate result shows that 55,908 appli-

cations had been made and there was a resulting 5,145 hearings. Almost 56,000 units in the province in 1977 were considered by the rent review program.

In the whole of the province, there may be in excess of a million units. There are a number of units that are exempt from the legislation. These are documented in section 14 of the Act. By far, the largest number of them are public housing units. They are exempt from rent review legislation. We estimate there are approximately 750,000 units within the province that come under the rent review legislation. Of that 750,000, in 1977, 56,000 actually came into the rent review process to seek increases by and large above the eight per cent or six per cent, whichever was in effect at the time during 1977.

I wanted to set out those figures so that you could have some perspective as to how this Act is actually working today. The main thrust of the Act today is working to keep increases down to the six per cent level. It's very much the exception rather than the rule that's coming to rent review.

**Mr. Walker:** Do you mind if I ask a question of Mr. Robbins? I have heard it said more than once in London by people whose opinion I respect that the ceiling of eight per cent or subsequently six per cent has by now become a floor in a good number of cases in that community. It may not be the case in other communities but at least down there it is in a good number of cases. Has your study evidenced that in any way?

**Mr. Robbins:** I would like to hold up my last document, which I think you should also have. It tends to contain a bit of an answer to that question. This is a rental market survey that was conducted by the Ministry of Housing. It is an annual survey and it is the latest one. It was conducted in eight cities. What this survey documents is the rent increases that have occurred in the eight cities that it deals with. It is not only rent increases of those that have come to rent review but it is rent increases that never came to rent review.

I can't remember the figures, although I could look them up if you wanted to give me the time for a few minutes, but there are figures in that survey that show there are many tenants in the province that received no increase whatsoever in a 12-month period, and it's a 12-month window that this survey looks at. You can only surmise as to the reasons for that. Leases that never came up during that 12-month period would be one reason. In some areas of the province, in particular—in certain areas of Hamilton, there

are higher vacancy rates. Down through the Kitchener area we have the same type of situation.

So part of the answer to the question is, it obviously hasn't become a floor for those tenants who receive no increase, and the number of those it documented in that rental survey. On the other hand, the main complaint I would say that we receive from tenants, the main general complaint, is that very one—the floor has become the ceiling—and I think in the large areas in Metropolitan Toronto—

**Mr. Walker:** You mean the other way around, the ceiling has become the floor.

**Mr. Robbins:** What did I say? Yes, the ceiling has become the floor. In other words, landlords are automatically instituting the six per cent increase now and I would venture to say, and this is only a personal opinion, there is now a psychology that that is an acceptable increase and the Act has given that increase a certain amount of credence because of that.

I mentioned that was the main complaint we got from tenants. I might also say the main complaint we get from the other side of the coin, from the landlords, is the lack of consideration for a return on investment. The legislation, and this gets back to the parameters of the legislation, is based on the cost passthrough principle.

Again, if I could refer you to the working paper on page 16 there are four bullets on the left-hand side that set out the base criteria for the legislation: Rent increases that have occurred since January 1, 1974, were to be considered. The discontinuance of a service, privilege, accommodation or thing, resulting in a reduction of tenants' use and enjoyment of the unit, was a criterion. The increases in operating costs and capital expenses that the landlord has either experienced or reasonably anticipates he will experience was another. Fourth was whether or not the increase in rent sought by the landlord is necessary in order to prevent the landlord from sustaining a financial loss in the operation of the building. Those are the base criteria you will find in the legislation.

The third point we refer to is the cost passthrough principle and it is the same principle that has governed all the activities of the anti-inflation program, the federal program, our rent control program and other rent control programs across the province. The cost passthrough principle says you attempt to match the revenue increase that a landlord will receive through rent increases with the cost increases that he either has or

anticipates he will have experienced. That's the way we go about the game.

The rules of the game are that we have them document three years' worth of costs; the current year that he is in, the year before that and what he anticipates he is going to experience in the next year. Then we look at those differences and looking at how those costs are increasing we then try to look at what we have to do by way of an order on rent increases to increase the revenues just to offset those costs. If the landlord is in a breakeven position in theory, ideally he stays in that position.

I say "in theory" and "ideally" because he virtually has to bring in all units; in the marketplace he has to be able actually to get the increase that we award him. If we award him an 11.6 per cent increase and he finds that for the three-bedroom apartments the market is soft, even though the vacancy rate may be one per cent but for three-bedrooms it could be six per cent, he may find he can't get 11.6 per cent for three-bedroom apartments, he can only get four per cent.

Nevertheless, we look at the costs. We make our awards based on kinds of revenues needed to offset those costs. If he is in a financial loss position, the legislation also allows the rent review officer to consider that loss position. That's all it says, consider the loss position. This has given the rent review officer a great deal of discretionary power in that when considering the financial loss position and making the determination of a rent increase, he can increase the size of that rent increase to the point where he is trying to offset the financial loss as quickly as possible or he can spread out or amortize the financial loss over a number of years and make an increase accordingly.

But what the legislation doesn't do and what the landlords say is their main complaint with the legislation—they also have a complaint about the whole concept of a rent review program—is that if you are in a financial loss position the best you could ever hope to do would be to get out from underneath that financial loss position to a breakeven position. If you are in a breakeven position, the best you can do is hope to stay there. They say there is no consideration given for any return on investment, and indeed this is a fact. There isn't any consideration in the legislation because it was brought in as a short-term temporary measure complementary to an anti-inflation effort. That was the justification for not having any consideration of a return on investment.

**Mr. Warner:** I have just a couple of things. I wanted to clear up some figures. I didn't



quite catch it. Did you say for 1977 there were 750,000 units approximately in the province which come under rent review?

**Mr. Robbins:** That's correct, out of a million.

**Mr. Warner:** Out of that, 56,000 actually went to rent review?

**Mr. Robbins:** That's correct.

**Mr. Warner:** That is roughly slightly less than eight per cent of all the units. The remaining 92 per cent did not find it necessary to go to rent review?

**Mr. Robbins:** That's correct.

**Mr. Warner:** In other words, they could live with the legislation and they could survive on the six per cent?

**Mr. Robbins:** Yes.

**Mr. Breithaupt:** Or they saw no reason to.

**Mr. Warner:** There seems to be quite an inconsistency between some of the remarks made on page 17 and the actual fact of the matter, because in the case of approximately 92 per cent of the units the owner was surviving on the six per cent and didn't find it necessary to go to a rent review system.

There is one other thing I want to clear up before we start. You've made reference several times this morning and you've mentioned it in the opening statement as well to the fact that the program is temporary and that it is in conjunction with the anti-inflation program. That is certainly consistent with the opening remarks made by the then Minister of Housing (Mr. Rhodes), I believe, on November 7, 1975, when he also indicated it was a temporary program to complement the anti-inflation program. You realize, of course, that that was at odds with what our party had proposed, namely, that it should be tied in with the supply of affordable housing and not tied in with whatever anti-inflation program the federal government wanted.

You having been in large measure responsible for the operation of the program have done some thorough study of the program. You've helped prepared a document which we now have in front of us. Having gone through that process for a couple of years, do you believe some form of rent review should remain in effect in the province of Ontario beyond the expiry date of the legislation or should it terminate, I presume not coincident with the termination of the anti-inflation program? We don't have any final determination of that. Do you feel we should have some form of rent review program beyond the expiration of the existing legislation?

**Mr. Chairman:** To interject here, perhaps it's not for me to decide, Mr. Robbins, and I'll defer to you, but I'm not sure how appropriate it is for Mr. Warner to ask Mr. Robbins a question of that nature when eight weeks out we are going to be making a recommendation that he will administer. I'm not sure that that's—

**Mr. Warner:** With all respect, Mr. Chairman, you ruled my motion out of order this morning. That's fine. It's the prerogative of the Chair to do what it will, but I'll not have my privileges as a member abrogated in any way.

[11:15]

**Mr. Chairman:** No, I said I would defer to Mr. Robbins but it seemed to me that that was not an appropriate question.

**Mr. Warner:** If you wish to rule my question out of order, do so.

**Mr. Chairman:** No, let Mr. Robbins make that decision.

**Mr. Robbins:** Quite frankly, I am not prepared to answer that question, I don't think, in quite the direct manner in which the question was put. I am not prepared personally to go beyond what has been documented in this green paper, which as I said I had a little hand in putting together, and that is to lay out the options for the decision-makers to make a decision on.

Those options as they respect rent review are really threefold, although we presented them as fourfold. One is to continue the program more or less as it is and I am prepared to sit down with this committee, if, indeed, the members are interested, and go through what that means and what should be done if legislation is going to continue or become permanent or continue for any length of time, because I think there are changes that have to be made to the legislation. That's one option.

The second option really is to move the rent controls into a decontrol period, as other provinces have already started. Alberta has passed an Act called the Rent Decontrol Act, I think it is, and they are beginning to move into a decontrol phase. BC is moving into a decontrol phase. Others are considering legislation that will be introduced when their existing legislation terminates, which is generally a little later than ours. In my view that's the second option that this committee and the government and the Legislature will have to consider, moving the control program into a decontrol phase of some duration.

The third option is more or less a do nothing option with respect to rent review and would just allow the legislation to termi-



nate or, as we have said in the working paper here, to replace it with the term that we have used is residual rent control; residual rent control being some probably permanent control over unconscionable rent increases. The definition of unconscionable, although there is a suggestion in the working paper, would have to be something that would have to be determined.

Those are the three options and as a public servant who was charged with the task of trying to bring some organization so that you people and the Legislature and the government could make your determinations, which only you can make, I am not prepared to go beyond that.

**Mr. Warner:** Mr. Robbins, I can appreciate some of those comments and I fully realize the restrictions that are placed upon senior civil servants. I understand that and it's quite proper. I was interested in terms of consistency. If you say, on the one hand, that the program was instituted to complement the Anti-Inflation Board program and we know that the Anti-Inflation Board program is going to expire at some date, we assume in 1978, then does it not logically follow in your view that the rent review program should also expire? Since it was set up in the first place to complement the AIB, so when the AIB goes, the program goes. That's what I am asking and I am asking someone who has been very close to this program for a couple of years and is knowledgeable.

**Mr. Robbins:** I interpret that a little differently from your first question. There was some mention, during the debate to establish this committee, of the use of my phrase in the opening letter in the working paper, the very last four words: "post rent review period." There was a lot of mention about the fact that I had used this word "post." I think what you say is absolutely correct. The legislation has in it an end to rent review as we know it today and as we have known it, but I also think, and this is what this green paper is all about and what this committee is all about, that there is an opportunity to consider something beyond that which is going to protect tenants and landlords and that we're really talking about something that's altogether different.

Hopefully, it will be broader in scope. It will deal with the matter of rents, but as we're suggesting in the working paper it will also deal with all the other aspects between a landlord and tenant, not just rents. One thing we learned very quickly in this program is that it's very difficult to separate

rents from all the services and amenities that those rents are really buying. Tenants don't like to do that. I think a lot of tenants in this province would be happy to absorb rent increases if the garbage chute was clean, if the elevators worked all the time, if the windows were washed, and you could go on forever, as we do, in our hearings.

There is an opportunity today, I think, to consider a new program, not a rent review program, but it deals with rents. It will have to come to grips with the question of rents. It should, we're suggesting in the working paper, look at all the other aspects of the landlord and tenant relationship, and then the third part is housing and related policies. Depending on what you do with the first two parts, there is a third part that's necessary and that's to do, as we've suggested, with things like shelter allowances and whatever else might be necessary in the housing side of it.

This committee, I think, has an opportunity to influence what that new program, if I can say it that way, or what's going to happen in the post rent review period, in the post December 31, 1976, period. So from that point of view, yes, I'll agree. I think that the current program of tenant protection, which is simply a Rent Review Act which is temporary and which doesn't have necessary features that would allow it to be anything more than a temporary piece of legislation, will end. The question is, what will it be replaced with?

**Mr. Warner:** Could you clear up one last question I have with respect to new buildings? You made some comments earlier about new buildings being exempted from the program and were from the outset. The implication I got from your remarks was that because they were exempted from the program there's been a problem; we're not getting new buildings because they were exempt from the program. Unless I have misread it, that seems to be the tenor of the second paragraph on page 17, where you mention:

"This does not mean that these new units will be entirely unaffected by the existence of the rent review program"; and then you indicate, "a slump in rental production."

I would like to know how it is, in your view, that exempting new buildings from the legislation has helped to ensure that new buildings wouldn't be built.

**Mr. Breithaupt:** The Legislature might change its mind.

**Mr. Warner:** It might change its mind?

**Mr. Breithaupt:** And include them.

**Mr. Warner:** But they haven't been included for a couple of years now.

**Mr. Robbins:** No, there's two factors that affect new buildings. I'm not a housing expert but I'm told by the experts that the rents in new buildings have to be competitive with what they call the upper quintile, the upper 20 per cent, of the existing stock. When I say the upper, it's the most expensive 20 per cent of the existing stock. In other words, you can't simply bring a new building on stream and, just because it's not under the rent review legislation, set rents at whatever you want to set them at. It has to remain competitive with other vacancies in the existing stock, the ones it's competitive with, the upper 20 per cent.

Those upper 20 per cent are under rent review, so if the rents are being held down generally because of rent review in those buildings they are affecting the actual revenues that can be achieved on a new building. As this paper documents, there is quite a large gap between the economic rent required to bring a new building on stream, and that that can be actually achieved today. Indeed, that gap is being filled today by government subsidies, federal and provincial.

**Mr. Warner:** In other words, the new buildings area is the area where the government could move in with low interest mortgages or whatever other financial incentive it cared to make.

**Mr. Robbins:** And indeed has.

**Mr. Warner:** Or direct subsidy to rent or whatever.

**Mr. Robbins:** When the rent review legislation was extended from July 31 to the end of 1978, the government at that time announced a piggyback subsidy onto the ARP federal program, and that indeed I believe has worked to stimulate some construction with some success.

The other factor I wanted to mention with respect to new buildings is uncertainty. Uncertainty in a businessman's mind is the worst thing that he can deal with. He would rather live with some rules he didn't like than have to live with uncertainty, and from a developer's point of view he is very uncertain about new buildings and rent review generally. He has no guarantee that new buildings would remain out from underneath the legislation and that makes him very jittery. So uncertainty is very much a factor too. Those are the two things that I think we see linking new buildings with those buildings under the legislation.

**Mr. Chairman:** I have one fast question

that ties into one of the points; may I just ask it first?

**Mr. Breithaupt:** Only if the Chairman allows you.

**Mr. Chairman:** There are a million units in Ontario, 750,000 come under rent review, and I am sorry to be so ignorant, but what about the other 250,000? Are they new?

**Mr. Robbins:** They are units that, by and large, are exempt from the legislation. They are listed in our booklet, which explains that some residential accommodation is exempt from rent review, and the list includes: premises in a non-profit housing project where rents are subject to the approval of the governments of Canada or Ontario—that's a lot of units—premises in a non-profit co-operative housing project as defined in the National Housing Act; premises owned or operated by a public hospital or religious institution for charitable use on a non-profit basis; premises owned, operated or administered by or on behalf of the governments of Canada or Ontario, municipal, district, regional or metropolitan government, or any agency thereof. So it is that kind of premises generally that is exempted.

**Mr. Chairman:** Thanks very much.

**Mr. Epp:** I have two questions. Could you make that booklet, plus the blue one, available to us?

**Mr. Robbins:** Yes I will.

**Mr. Epp:** Secondly, you referred earlier to this program being complementary to the AIB, and I am sure you are keenly aware of the fact that this program was announced prior to the AIB being announced and the regulations being implemented. For instance, this program was announced in July and was conceived at least three months prior to the AIB ever being announced. I didn't want to leave the false impression here that the AIB came in and then this program came in; it was announced prior to it.

**Mr. Robbins:** I wasn't anywhere near involved with this at the time. I was a casual observer of the newspapers. But it was my understanding that the commitment that was made in July 1975 was one of "we will do something," not a specific program but "we will do something."

**Mr. Epp:** We will bring in rent controls?

**Mr. Robbins:** Yes, of some kind, without specifically laying down what the program was. Then on October 14 the AIB was given birth; and I think that subsequent to that the government actually formed the program and made it exactly along the lines that were requested by the federal government itself.



**Mr. Epp:** And made it retroactive.

**Mr. Robbins:** You can play with the semantics. I think the commitment to do something was made much earlier than the AIB, but what was actually done was certainly very much in consonance with the AIB program.

**Mr. Breithaupt:** Mr. Chairman, I just want to ask if you would obtain for us the legislation that was referred to in British Columbia and Alberta along with the debates in their respective Legislatures as to what they were doing and why they were doing it, which might be of use to the committee?

**Mr. Samis:** I have two questions I want to ask. Jim's point there leads into one. Can you give us some idea of what communication or contact you have with the equivalent officials in the other provinces operating their programs, and to what extent you stay in ongoing contact, especially as they move into the alleged decontrol phase?

[11:30]

**Mr. Robbins:** There is no formal communication. We don't have a group that sits together and has a planning session and so on. Every time anything of any consequence happens in another jurisdiction we all know about it very quickly. There is a lot of informal communication back and forth. For example, the provinces were all waiting for this to come out. They all knew it was coming out. They were waiting for it to help them in formulating some of their rules. Some of our ideas have come from other jurisdictions that have acted before us. One of the exemptions, for example, mentioned under exemptions as an alternative for rent review, is luxury units. That's the route Alberta has taken in their decontrol program. They have set a rent level where once you've broken through it you are no longer under the program. If that level remains the same it is only a matter of time before eventually everybody breaks through the program. That is the way they are going about decontrol.

It is essentially informal, but it is quite efficient in that we do communicate quite frequently.

**Mr. Samis:** Can I ask, when you do furnish this information on Alberta and BC, that you share with us any other information that has come into your office about other provinces in terms of decontrol; or any assessments they have made of their rent review programs that they have sent to you, or discussion papers or anything of that sort?

**Mr. Robbins:** I'll certainly undertake to get documentation.

**Mr. Samis:** The second question I have

is about a statement you made a while back that surprised me a bit. You said you had considerable statistics on tenants who had no rent increase in a 12-month period. Coming from a small town where we don't have too many large rental units, I am a little surprised at exactly how you compile those statistics, especially involving people who don't have long-term leases. Could you give us some background as to how you compile your information on those types of people?

**Mr. Robbins:** This was a survey that was done by the Ministry of Housing in September 1977 covering eight major cities in Ontario. The methodology used was a questionnaire that was taken out to a firm that has people who do this kind of thing. It was a telephone survey in which they zeroed in on renters and people like that.

**Mr. Samis:** At random?

**Mr. Robbins:** It was based on a random sample that they draw from. I'm not exactly sure how they accomplish that. They are looking at a cross-section of tenants in those eight major cities. The statistical significance of the numbers is such that you can make conclusions that are generally true. In other words, the average rent increase you come up with is the average rent increase to a 97 per cent probability or something like that.

**Mr. Samis:** But it's still a random survey on which this is being based, even though it covers eight cities.

**Mr. Robbins:** Yes. I'll forward this document and copies of it to the clerk for your perusal. I recommend that you do look at it. The statistics in this document are broader than any we in the program can produce, because all our statistics deal with are those people that came to rent review, which is a small portion of the province, whereas this gives some documentation on actual rent increases right across the board.

**Mr. Samis:** Does it specify who conducted the surveys as well?

**Mr. Robbins:** It's the Ministry of Housing. I don't know if it actually states the firm which made the telephone calls, but the Ministry of Housing designed the questionnaire and analyzed the results; I think they farmed out the actual telephone survey part of it.

**Mr. G. E. Smith:** A point of clarification: I am under the impression that the government does finance the cost of operating the procedures of the rent review board?

**Mr. Robbins:** That's correct.



**Mr. G. E. Smith:** I haven't yet read your alternatives thoroughly, but do you give any recommendations as to any alternate methods of financing? For example, if a landlord wants to appear before you would he pay a certain part of the cost of the hearing? I'm just wondering whether you do recommend any alternative course of financing the review board, or whether you are considering it at all.

**Mr. Robbins:** There is a reference in the working paper and it may take me a while to pinpoint the actual place. It is under the sections where we talk about the residential tenancy boards and tribunals. In that section, on page 38, it makes the suggestion of a possibility of self-funding, at least partially. I might mention that the Ministry of Consumer and Commercial Affairs has what we call a strategic plan, which is a fancy name for some guiding principles that we have laid down. One of them is to look at ways and means of reducing the load on government expenditures by things like self-regulation, self-funding and this type of thing. It was that which gave rise to the consideration of other ways in which we might finance something like that.

The paragraph itself is on page 38. It's under that little heading on the left hand page, right hand column; it says government financial restraint. It is the second paragraph: "However, it may be possible to defray the costs of such a tribunal by having it indirectly financed in whole or in part by those who would use its services. For example, the deposit of the last month's rent is now paid to the landlord who must by law pay interest on it to the tenants at six per cent. If this deposit were payable in trust to the tribunal to be held until the end of the tenancy, with the right of interest being that of the tribunal instead of the tenant, the interest could be used to defray the tribunal's costs. Landlords might also be willing to defray part of the costs by tribunal if it were devised so as to simplify speedy resolution of problems."

That is one example of at least a feasible way in which such a tribunal might defray its costs. I'm sure that there are others; we didn't spend a great deal of time thinking of alternatives in that direction but we did put that in; and it's almost a by-the-way comment in that it is in there but we put it in only to point to the possibilities that do exist.

**Mr. Chairman:** Mr. Robbins, you mentioned the uncertainty of the business community—developers specifically—and how that might impact their decisions; I understand that. In

your judgement, if one were to ask a group of developers why they are not now building, would the existence of a rent review program be the key factor?

**Mr. Robbins:** It would certainly be one of the factors. I suppose if you as a committee ask them it might very well be the key factor, obviously, because that is the thing that you are specifically interested in. It is one factor, there is no doubt about it, but there are other factors of high interest rates, the long delay in approvals, the recession itself. For anybody thinking along those lines, the thing I would caution on is that you can't unload the responsibility onto the other factors.

Each one puts its weight of burden onto the thing and makes it happen, and until each one of them is addressed to some degree things aren't going to change too much.

**Mr. Chairman:** Are there any further questions? Mr. Robbins and gentlemen, thank you for being with us. We appreciate your time; and again sorry for the delay in starting.

**Mr. Epp:** I presume that there is an understanding here that we can have Mr. Robbins back at any time later on when there may be other questions.

**Mr. Robbins:** We are certainly at your disposal.

**Mr. Samis:** Could I ask when we might expect the information that Mr. Robbins said he would provide us with?

**Mr. Robbins:** Certainly the documents that are now in existence—those I have referred to—I can have to the clerk by the end of this week. As for the documentation from Alberta and British Columbia, it will depend on how quickly I can get them to move. But copies of existing documents we can have to you by the end of the week.

**Mr. Walker:** I would hope that Mr. Robbins might make himself available during some or all of the hearings that we expect to have over the next five Wednesdays, although this might be imposing something more than his timetable can accommodate; but it would be appreciated if he could be here. There might be some observations made relative to some of the presentations that we as a committee would find useful, in view of his obvious experience with the program's function. Undoubtedly, we're looking at the function of the program and it would be useful to have present a man who is directly involved with the functioning of the program.

**Mr. Robbins:** It would be somewhat difficult for me personally to be here all day every

Wednesday. I'm very happy to see there will be a Hansard on it. I intend to read every word of what has transpired on the week-ends and during the evenings. We will also have a member of the ministry here monitoring what is happening, so that if there were a request which appeared very urgent we could act on it right away rather than being dependent on Hansard in order to pick it up a day or two later. I would prefer to leave it that way rather than my being here at all times for all the hearings.

I know a lot of what you are going to hear because we've heard it already. A lot of people who are going to come before the committee have stated their case, either through ministerial contacts or through our visiting them in tenants' associations and in landlords' associations.

I would certainly remain at your disposal as far as coming back to the committee and answering any questions that you may have.

**Mr. Walker:** I'm not sure there are any printed Hansards.

**Mr. Chairman:** There are.

**Mr. Walker:** Hansard coverage is to be provided, but is it to be printed?

**Mr. Chairman:** Yes, according to the resolution.

**Mr. Walker:** That might help. But if you would make yourself available during part of the hearings, perhaps the initial part, that might be helpful.

**Mr. Robbins:** With the help of the chairman and the clerk, I can try to find out what the agenda is in upcoming sessions and perhaps attend those that might be most beneficial.

**Mr. Chairman:** Mr. Batchelor has some people with him as well. But just before Mr. Batchelor comes up, I neglected earlier to read the substitutions into the record.

This is to inform that Mr. Norm Sterling is substituting for Bill Hodgson and Mr. Bud Gregory for Mr. Albert Belanger at the meeting today.

Are there any other substitutions today?

**Mr. Breithaupt:** None, other than those for the major portion of the hearings. Mrs. Campbell and Mr. Hall and myself will be substituting for Mr. Mancini, Mr. McGuigan and Mr. McEwen. We can expect that on a continuing basis Mrs. Campbell, Mr. Hall, Mr. Epp and I will be the representatives for the Liberal caucus on this committee.

**Mr. Chairman:** Mr. Batchelor, as you know, is chairman of the residential premises rent

review board. Perhaps he would be good enough to come forward and introduce the two people with him.

**Mr. Batchelor:** Thank you, Mr. Chairman.

[11:45]

Mr. Robbins made reference to the two individuals who are accompanying me as my staff. They are not my staff, they are my colleagues. Miss Mary Hogan is an executive member of the board. We are all appointed to the board by order in council. Mary is also a solicitor and has been with the board from its inception.

On my left, I have Mr. Kirpal Sagoo, OBE, who was the government whip in Kenya, and was involved in rent review and its implementation of rent review in Kenya. I have brought two senior members of the board with me. I come somewhat like Mr. Robbins in that I really didn't know just what might be asked of us. I think we are in a slightly different position from Mr. Robbins in that we are sitting board members and will continue to sit until the expiry of the legislation. Any comments we might make should not appear landlord-favoured or tenant-favoured because it might prejudice the board member in the future when sitting at a hearing. That is my opinion. I would appreciate it if the committee have any questions, they would direct those questions to us on what we have experienced as board members since the inception of the board. Do you have any questions, ladies or gentlemen?

**Mr. Walker:** Perhaps you could begin by telling us how the board functions by taking us through a hearing from the moment of some complaint by a tenant or a landlord to the point where a decision is made, how long it takes, what you do and what form it takes.

**Mr. Breithaupt:** Before that happens, perhaps Mr. Batchelor should know that while the opposition critics each received a copy of his report to the minister for 1977, I don't think all members have received that. I believe copies are being made and will be distributed, but I don't know that all have it.

**Clerk of the Committee:** Everyone has it.

**Mr. Breithaupt:** They have them now? That's fine.

**Mr. Batchelor:** In answer to your question, the procedure begins with an appeal by a tenant or a landlord from the decision of Mr. Robbins' staff, the rent review officer. That comes to us. We then schedule a hearing.



It possibly could be within a month from the time of the actual appeal. It could take anywhere from a month to six weeks to get the result of that hearing out to the parties concerned. That's briefly what happens. In giving our decision, many times we are requested to give reasons why the board members came to their conclusion. So we send out the reasons, at the same time we issue our order.

My responsibility under the Act is to assign the board members to the hearing. The Act states that two board members shall constitute a quorum of the board and shall have all the powers of the board. So we have two members sit at each hearing. If you have any questions of Miss Hogan or Mr. Sagoo feel free to ask them.

There is another explanation I would like to make. Although I administer the board, and assign the board members—and I mentioned that Miss Hogan serves as an executive member of the board—we also have a policy committee. She serves with me on that committee. At least once a month we meet with senior members of the staff to discuss policy matters affecting all the board and its operation. If you have any questions to ask any other person here, feel free to do so.

**Mr. Walker:** How long does it take, from your experience, from the beginning of a person's complaint through Mr. Robbins' people, through to an appeal in your particular area?

**Mr. Batchelor:** I mentioned how long it would take us approximately. I should state that if you were to go back into the records you would find, as Mr. Robbins stated, there was a tremendous backlog of work in the beginning. When I am talking about time factors, I am talking now more about current time factors and not what it was like in the beginning, because there was a tremendous backlog and it was a long time before the appeals ever got to us. Of course, in that situation it could be several months before a decision would be rendered. At the present time, I would think that from the time Mr. Robbins receives the appeal he would be finished with that appeal within six to eight weeks; and then it would be a matter as to whether the landlord or the tenant appealed that decision to us, whether we will hear it or not.

To give you an idea, I brought along some facts and figures. From the inception of our board there have been 33,491 landlord appeals and 5,692 tenant appeals, for a total of 39,183. Getting back to the question that you asked Mr. Robbins, this is units and it

could be 100, 50, 10—it could vary how many units that covers.

**Mr. Samis:** Is that since inception?

**Mr. Batchelor:** That's since the beginning, yes; up to the current week ending April 7.

**Mr. Walker:** How long do you think it takes then, through Mr. Robbins to the point where an appeal is entertained by yourselves and a decision rendered?

**Mr. Batchelor:** I would say that it should be within a three-month period, from the start with Mr. Robbins and conclusion with us. I should point out the procedure that we go through so far as the board members are concerned. That procedure is that there is a preparation of the files for the board members. Then the board members actually attend the hearing. They do the physical work, working out the calculations following that, and then that is turned over to our accounting staff and sometimes to our legal people associated with the board, to see if the board has actually come up with a correct calculation from an arithmetic point of view and the correct calculation from a legal point of view. That takes a period of time—anywhere from maybe a week to 10 days—to get the members of the staff to go through the appeals and make sure that we render a decision that is a proper decision.

To give you an idea of how I feel we've administered the legislation effectively from the beginning, we've had 350 written complaints from either landlord or tenant over the period of time. We've had 37 inquiries from the Office of the Ombudsman; and applications for judicial review have been filed on the board 22 times. Out of all those appeals, I consider that a pretty good record.

**Mr. Samis:** Could I ask what the nature of the complaints was generally?

**Mr. Batchelor:** They are of a general nature. Sometimes they will perhaps complain as to how the board members handled the particular case, but if it's to be considered a proper complaint about a board member it must be registered at the hearing, not after the hearing. That is only the minor number of complaints. There are also complaints about the legislation, or complaints about the fact that they do not feel that the decision was a fair decision; or if it happens to be an increase, the tenants would maybe be complaining because we increased it 10 per cent over, say what the rent review officer rendered in his decision; or if it was the other way around and we decreased a 15 per cent decision to 10 per cent, the landlord is going to write in and maybe complain about that.



**Mr. Samis:** Would that be the most frequent complaint, about the fairness of the decisions?

**Mr. Batchelor:** The most frequent complaint is about the fairness of the decision; and I think that the number of complaints indicates that the public generally has been pleased with the decisions we have rendered.

**Mr. Walker:** I still haven't fully captured what you said about the time period. I don't know whether it's my interpretation of what you're saying, but is it three months from the point of time when it leaves Mr. Robbins till it gets to your decision? Or is it three months right from the start?

**Mr. Batchelor:** Right from the start.

**Mr. Walker:** So a person can go through the rent review officer and then go through your board appeal in a period of three months and have a decision at the end of the third month?

**Mr. Batchelor:** Yes, I would think so. That's not true in every case, because there may be something that is involved in a particular case that will prolong it. Sometimes it is necessary for the board to adjourn a hearing; either the landlord or the tenant may have presented certain evidence, or not had certain evidence, and the board in its discretion would decide whether it should adjourn that hearing and set a date for a new hearing. That will delay it, if that happens, and it does happen on occasion.

In fact, I sat on one hearing this year myself that was adjourned three times. That prolonged our decision. That would draw it out maybe beyond three months; but normally, if it's a normal procedure, a normal appeal and there is nothing involved or complicated in it, it should proceed through Mr. Robbins and ourselves within a period of three months.

**Mr. Samis:** Can you just share with us, realizing there is a backlog from 1975 and early 1976, how that three-month figure compares with the evolution since the inception of rent control with appeals? Say 1976, 1977 and at the present time?

**Mr. Batchelor:** I don't have the actual time factor on that, but at the peak of our hearings we were having, in November 1976, 130 hearings a week. We are now down to 20 hearings per week. You can see there would be considerable delay. I had 48 board members, and the former chairman, Maxwell Bruce, would be involved in scheduling and the time factor. At that particular point in time I was not chairman, I was vice-chairman; but in

that capacity, even with the title of vice-chairman, it was just like being a regular board member. I attended hearings whenever the chairman assigned me, as Miss Hogan or Mr. Sagoo would do. So some of those would take considerably longer than three months. It could possibly take four or five months, depending upon the cases. There were some large hearings that took considerable time just to do the physical work on them.

**Mr. Dukuza:** I must have just missed it when you were explaining your functions. I am not quite clear on the relationship of the three of you to each other on the board.

**Mr. Batchelor:** This is one of the difficult things that has existed from the time that the board was established. The board is a separate body, as Mr. Robbins said, a completely separate body from the program. Many times I have had my picture appear in the newspaper with the statement that I head up the board, and some people interpret that to mean that I head up the whole thing, including Mr. Robbins' area, which is not true. Mr. Robbins is a completely independent individual. We function as a board, completely independently; and as he stated, when the information comes forward to us and it is a new appeal the landlord has the opportunity to present new evidence, it is a hearing *de novo* and my function in this situation—in addition to administering the entire operation of the board—is specifically assigning board members to certain hearings.

I could assign Miss Hogan or Mr. Sagoo to a hearing, and I have to have regard to the fact that the board members are all temporary, not full-time members. In other words, they are not sitting full time. They all have other positions or other jobs. It may be that I could call Mr. Sagoo on one day and he won't be available, and Miss Hogan on another day. Then I have to juggle around my board to be able to fit members in with the hearings. I am not only doing that in Toronto, I am doing it throughout the entire province.

The function of the board is strictly an appeal board. It is like a court of appeal, that's the best way I can describe it to you. The landlord or the tenant has one final chance, after the rent review officer, to have the case heard again. Then if he is not successful there, he can appeal to the courts and go through judicial review.

[12:00]

**Mr. Dukuza:** That's the next stage.

**Mr. Batchelor:** That is the next stage after the board. As I indicated, there have only been 22 board decisions appealed for

judicial review and I know some of those at the present time have already been dropped and are not being pursued. That is a very small number who have sought judicial review.

Since the Act was first introduced, section 13 permits a tenant or landlord, upon receipt of notice of our decision, to appeal to us to have the case reheard on the basis of a serious error being committed by the board. A serious error is not a question of discretion. In so far as the board members are concerned, this is their discretion and is not something that even would be appealed to judicial review. Our board members could have erred in law. Then applicants can appeal to me and I can schedule a new hearing, if they appeal within 30 days from the receipt of our order. In between going to judicial review they have a chance, if we have erred anywhere, to have filed with me a complaint that the board members erred in law, and they can ask for a rehearing. There have been a few of those but not many.

**Mr. Duksza:** I take it you would then sit separately. For example, Miss Hogan would have a hearing by herself.

**Mr. Batchelor:** No. I will just read to you from the Act: Section 12(1) says: "A board to be known as the Residential Premises Rent Review Board is established composed of such number of members as the Lieutenant Governor in Council may appoint and of the total number of members appointed at least one half shall be persons representative of tenants." Section 12(2) says: "One of the members shall be designated by the Lieutenant Governor in Council as chairman of the board." Section 12(3) reads: "Each member shall be reimbursed for his reasonable travelling or out-of-pocket expenses necessarily incurred" et cetera. Then section 12(4) states: "Members of the board shall hold office during the pleasure," and section 12(5) says: "Two members of the board, one of whom shall be representative of tenants, constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the board and their decision on an application shall be the decision of the board."

**Mr. Duksza:** As a board you have a right to roll back or increase the decision reached by the officer at the lower level?

**Mr. Batchelor:** Yes, we have that right.

**Mr. Duksza:** I have a report from you in front of me, but I would like to ask some questions about how you operate and how many cases you have dealt with and then,

ultimately, what kind of decisions you have taken.

**Mr. Batchelor:** I did mention—I am not sure whether you were here at the time—how many hearings we have had since the inception of the board. Were you present at that time?

**Mr. Duksza:** No, I missed that. I really do apologize.

**Mr. Batchelor:** There were 33,491 landlord appeals and there were 5,692 tenant appeals, for a total of 39,183 appeals. Those are units, so it could be that one appeal might have 10, 20 or 25 units. This does not mean we have actually had that many hearings.

For some of the information you are interested in as to how we came to our decision, I can tell you in 1976, dealing with the decision of the rent review officer, 20.9 per cent of the rents were reduced by our board; 49.3 per cent were increased; and 29.8 per cent were upheld. Total orders issued in that year were 12,189. In 1977, the figures were rent reduced 20.2 per cent; rent increased 36.7 per cent; and rent review officer's order upheld 43.1 per cent. There were 17,420 orders issued.

So far in 1978, the figures are rent reduced 30.2 per cent; rent increased 58.9 per cent; and the rent review officer's order upheld 10.9 per cent.

**Mr. Duksza:** You always deal with these after they have already gone through a process?

**Mr. Batchelor:** Yes, we are dealing with an entirely different situation. In certain situations, particularly in the beginning, from the time a matter would get from the rent review officer to us we could be into another year and a new set of figures could be filed by the landlord. He has the opportunity of filing a new cost-revenue statement and those figures could result in a change in the decision which would appear, on the surface, that we are upgrading the increase by a considerable amount over that of the rent review officer.

There is also the possibility between the time when the actual first cost-revenue statement was filed and certain items were scheduled as capital items, which are written off over a period of years—a roof for 10 years, a furnace another number of years; we have a schedule of all these items that are placed under capital items which are written off over a period of years—that may, in the first instance before the rent review officer, have been only a plan that the landlord actually had. By the time it gets to the board



it could actually be an accomplished fact and have been paid for and he can produce bills to say he has paid for it. So that will vary the decision of the rent review officer in the intervening time.

**Mr. Duksza:** I have been told so often, following studies done by the tenants, that the rent increases which on the whole have been allowed by the officers at the lower level have approximately been 12.5 per cent of the existing rent. The guideline, as everyone clearly knows, is six per cent. Then they go to your level, and you say you upheld 29 per cent of cases—

**Mr. Batchelor:** In 1976 we upheld 29.8 per cent. In 1977, 43.1 per cent, in 1978—which is a short period of time up to the present time—10.9 per cent.

**Mr. Duksza:** You reduced less than a third.

**Mr. Batchelor:** We reduced right across the board, except in 1976 it was 20 per cent, you could say, and 1977 was 20 per cent. This year so far we have reduced 30 per cent.

**Mr. Duksza:** Do you have figures of the percentage you have reduced so that I have some means of comparing the guideline of six per cent with what the rent officers have increased and what kind of actions you have taken?

**Mr. Batchelor:** Are you actually asking do I have with me the figures that show that the rent review officer rendered a certain decision—say 10 per cent—and we either moved it up to 15 per cent or down to eight per cent?

**Mr. Duksza:** Yes.

**Mr. Batchelor:** I don't have those figures with me, unfortunately, but I can get them for you.

**Mr. Duksza:** If you have upheld or increased more than you have decreased then, in fact, the appeal board on the whole has increased the allowable increase for the tenants. Would I be correct in saying that?

**Mr. Batchelor:** Not necessarily. For example, in most of the cases that have gone to the rent review officer and are appealed to us, the rent review officer renders a decision over the guideline of what was eight per cent and is now six per cent, because there are very few cases where the rent review officer would take something where they are appealing six per cent and give four per cent.

**Mr. Breithaupt:** It wouldn't have come to him in the first place.

**Mr. Batchelor:** It could though.

**Mr. Breithaupt:** Very rarely.

**Mr. Batchelor:** Very seldom does anyone ever appeal the guideline, but it could happen. The decision of our board members is based on the facts. In other words, there is certain discretion. Our board members have before them a cost-revenue statement and Mr. Robbins made reference to the guideline to the cost-revenue statement, the yellow folder that he is going to give you a copy of. That is the guideline that is used by the rent review officer. It is also the guideline that is used by the members of the board. We use the same thing.

The only thing that can change, increase or decrease a situation as far as rent is concerned is a change in the facts. It has to be factual. It just can't be that my board members arbitrarily just decide the rent review office gave 10 per cent and a fair decision would be 15 per cent. They have to support that. Every decision that goes out on rent increases or decreases is monitored by my staff and then put in front of me. I actually see the decisions as they go out and see what the increases or decreases are.

If I think they're away out of line—if it went from 10 per cent to 40 per cent—then I call my staff in to find out why, and I could call the board members in to find out why they came to that decision. If it's an abnormal figure—I want to know why the board members made that decision, and I want to know from my staff how it was calculated, from a fact point of view, from the figures filed by the landlord.

You see, the landlord is required to substantiate his figures and in most cases he will file supporting evidence of bills, receipts, for what he has done. If he doesn't, this is where the board, through questioning tenants and questioning the landlord, may be able to determine that, in fact, the landlord did do the painting of the halls and certain other things that he claims he has put under his maintenance expenses and the tenants may agree that it was done.

However, in certain situations the tenants may say, "No way was that ever done." The board members are then in the position where they have to use their discretion as to what they believe from the evidence given by the landlord and the evidence given by the tenant. The board members, if they have doubt in their minds, can place the tenants and the landlords under oath, so there is a way of making the matter a serious one as regards any statement that is made before the board.

**Mr. Duksza:** So in all your hearings both sides are always represented?



**Mr. Batchelor:** Sometimes a landlord may not appear and sometimes a tenant may not appear, but I would say in the majority of cases both sides are represented and both sides have the opportunity of hearing the other side. In fact, at the board level, the cost-revenue statement that Mr. Robbins made reference to, which is a statement that shows revenue, the actual operating costs, the capital expenditures, the financing, we send a copy of that out to all the tenants involved, so they have an actual copy of that in their hands for a period of time prior to coming to the hearing so that they can study that. They do not receive that, by the way, at the rent review officer level. They can look at it at the rent review officer level, but they actually receive a copy of it from our board.

**Mr. Dukszta:** I realize that when the tenants go to the rent review officer they don't have a chance of looking at the document the landlord is presenting. You're saying that at your level they get a photostat copy of it and they can then get someone to look into it?

**Mr. Batchelor:** They can look at that so they can prepare themselves for the hearing and they can prepare the questions they want to ask of the landlord concerning the figures in the cost-revenue statement.

**Mr. Dukszta:** It goes to them well before the hearing?

**Mr. Batchelor:** Well before the hearing. At least a couple of weeks.

**Mr. Dukszta:** I wonder if you'd comment on why it doesn't happen at the lower level? Surely it would make it much easier for people to come to an amicable settlement?

**Mr. Batchelor:** I really have no comment on that, Mr. Chairman. That's a matter of the procedures that were established at the lower level as regards how they operate.

**Mr. Dukszta:** I'm not really asking you so much for a political question, but just from a point of legal fairness.

**Mr. Batchelor:** I'm prepared to say it would be better if the tenants could have an opportunity to have a copy to study, rather than coming to the meeting and maybe having to look at it right at the meeting and having to make their minds up concerning the facts.

**Mr. Dukszta:** Is it possible to ask the other board members to comment on other aspects of this?

**Mr. Batchelor:** I already mentioned that if you wish to ask Miss Hogan or Mr. Sagoo, they're both very experienced board members and have attended many hearings and they

can tell you many things if you want to ask them any questions.

**Mr. Dukszta:** Yes, I was going to continue with several questions and I would like to ask the two other members who are present with you a couple of questions, but you mentioned that half of the board has some linkages with the tenants and half with the—

**Mr. Batchelor:** No, May I read that section? Have you got that, Kirpal?

**Mr. Dukszta:** How does it apply to these two charming people who are with you?

**Mr. Batchelor:** "Two members of the board, one of whom shall be representative of tenants, constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the board and their decision on an application shall be the decision of the board." Prior to every hearing, I read that out at the hearing. I do not designate who is a tenant representative.

[12:15]

The individuals who are with me on my board—Miss Hogan and Mr. Sagoo—are tenant representatives. And I would be considered a public representative, although there is no definition in the Act that says public. Also, something that should be made clear before you question either Mr. Sagoo or Miss Hogan is that while they are tenant representatives this does not mean they are actually at the hearing for the purpose of promoting the rights of the tenants, because that would place that particular board member, whether he be tenant or public, in a biased position. They are supposed to be unbiased. They are supposed to be objective in dealing with the hearing whether they be public or tenant representatives.

**Mr. Dukszta:** I'm not sure I follow it. Maybe I could ask that question of the two people; maybe we could start with Miss Hogan. I am not quite clear; Mr. Batchelor specified that you are tenant representatives in one sense but then he says that you remain quite neutral. Could you tell me how it works?

**Mr. Breithaupt:** You might explain to us just how you were appointed as a tenant representative and by whom.

**Mr. Epp:** You might also elaborate on the fact that the report here says you are a staff consultant.

**Mr. Dukszta:** Just keep on elaborating, Miss Hogan.

**Miss Hogan:** I am a lawyer who has had the bulk of my experience for the last four years in landlord-tenant and housing law. As a result of that, I did a lot of work with

tenants' organizations and tenants' groups. I was nominated by the Federation of Metro Tenants' Associations to sit on the rent review board. The federation sent in quite a number of nominations and from all of those nominations the government saw fit to appoint some of us.

**Mr. Epp:** I can see why they appointed you.

**Miss Hogan:** In terms of sitting on the board, obviously I come to it with a fair amount of expertise, certainly in the legalities of landlord and tenant law, and I had looked fairly extensively at the whole area of rent review before rent review came into effect in Ontario. I also had a lot of experience in dealing with tenants' organizations, seeing problems in buildings on an ongoing basis. I bring with that experience, I hope, a certain sensitivity to what the tenants are saying at the hearings.

Certainly, in terms of the decisions we are making and in conducting the hearings, they are in a sense judicial decisions and we have to make decisions based on the evidence before us. Clearly, I don't think we can show at the hearing any prejudice to a landlord or a tenant. That leaves us open for a perfect judicial review on the basis that one of the other members was biased. I think where it comes out is, hopefully, in my sensitivity and experience on the tenant side of things, but certainly at the hearing I have to attempt to be fair.

**Mr. Charlton:** Could I get in a couple of questions?

**Mr. Dukszta:** I haven't given up yet.

**Mr. Charlton:** Just to carry this whole thing on a little further from here: Mr. Robbins mentioned his rent review officers had a certain amount of discretion as to how they would consider evidence in terms of losses and so on. Do the board members have the same discretion as a rent review officer would have in those terms? In other words, are there certain financial things that a landlord could present or a tenant could present that you may or may not consider?

**Miss Hogan:** Under the legislation we can make the same orders as a rent review officer and, basically, we have the same discretion. In terms of how that is exercised, I think there are differences, to some degree, between the board and the program where the rent review officers operate. I think there are also differences among board members and rent review officers. We have a fair amount of discretion. Personally, I certainly feel it is very important that any figures that are brought to us are substantiated. I think

there is a whole area there that lends itself to a certain amount of discretion, as to what sort of substantiation is necessary before either an officer or a board member will accept a figure. Some are tougher than others.

**Mr. Charlton:** That leads to my next question. If there are two on the board hearing an appeal and because of their discretion the two board members don't agree, who then makes the decision on the appeal?

**Mr. Batchelor:** Maybe I should answer that question. So infrequently is there a difference between the board members I would say it has happened two or three times. I interview the board members and ascertain what the problem is, and if they can't reconcile the situation and come to a decision then I reschedule another hearing and appoint another panel.

**Mr. Charlton:** But you wouldn't just sit down and listen to their reasoning and make the decision yourself. You would reschedule another hearing.

**Mr. Batchelor:** In no way would I make the decision myself. Another panel would be scheduled for the hearing.

**Mr. Epp:** I would just like to ask a question of Miss Hogan. You've dealt with a lot of tenants, as you indicated. You've had a lot of cost revenue statements presented before you, and I'm just wondering how the tenants react to these cost revenue statements; what their attitude is towards them.

**Miss Hogan:** For tenants it's probably very difficult to go through the cost revenue statements to know how to attack them when presented with a whole myriad of figures. There are some organizations, primarily in Metro, that operate to assist tenants, such as Metro Tenants Legal Services or Parkdale Community Legal Services; all sorts of organizations like that will actually represent tenants at hearings. It takes experience and a fair amount of expertise for tenants to know exactly how to begin to attack cost revenue statements and how to do it well. There is a certain amount of concern on tenants' behalf about whether the landlord can justify his figures, and what sort of justification is necessary for the board or the rent review officers' satisfaction.

Often, too, the landlord's accounting system can be fairly complicated, particularly if you are looking at a major landlord with a tremendous number of holdings who is working things back and forth among various buildings. It often takes a good accountant to sift through—



**Mr. Duksza:** Do you have a good accountant?

**Miss Hogan:** We have a good accountant but our accountants don't sit in and don't lend assistance to the tenants. So that's a problem in terms of the expertise available to tenants.

**Mr. Epp:** Do tenants sometimes bring accountants with them?

**Miss Hogan:** Very rarely. I can't think of a hearing that I have sat on where the tenants have brought an accountant. I can think of many hearings where tenants have been represented by someone who has a certain amount of expertise in the area, and is doing the hearing for them. On the other hand, of course, landlords are represented on a fairly regular basis, I would say; the larger landlords, particularly, do attend with their accountants.

That's very difficult because the landlord sits there with his accountant who has got a pretty good knowledge of the bookkeeping and the accounting systems and what's what. And the tenants, having previously had the opportunity to look through the cost revenue statement, may be able to define some areas of concern; for example, if there is a major amount set out in the cost revenue statement for repairs and maintenance and the tenants have seen very little repair and maintenance in the last year, they can challenge that. But I think it's very difficult in terms of the expertise available.

**Mr. Duksza:** Why is it so difficult, Miss Hogan? Would you elaborate for the benefit of this committee how difficult it is for the tenants?

**Miss Hogan:** If a landlord comes and says he did such and such amount of work. Again, I suppose we are into an area of discretion here in terms of what is acceptable for justification. Our policy is generally to require the landlord to produce his receipt and bills or an audited statement. If he can't do that, he is required to come up with some other solution that has to be acceptable to the board.

We put out a notice that goes out with the hearings telling the landlord this. One of my bigger complaints about landlords—and I don't mind saying it here in front of the committee—is that they either don't read that notice or they choose to ignore it. The hearings would go along a lot more smoothly and with a lot better understanding from the tenant's point of view if we had everything documented. Too often landlords come in without audited statements, or without

receipts for their various expenditures, and we are left in a very difficult position of attempting to determine whether in fact what they are asking for is justified or not.

Here's an area of discretion. The board members may listen to the landlord and hear him perhaps under oath say, "Yes, I did such-and-such a work," and the tenants will say that they saw some work going on, but they are not sure of the extent of it because often you can't see the extent of the work. If you are tearing apart walls and putting in piping, tenants can't be exactly sure of the extent of the work; nor, necessarily, the cost of the work, if the landlords don't come with receipts or with an audited statement.

I think that is where tenants begin to feel they are frustrated, because in some cases some of those figures are accepted. They say, "Look, here's the notice, we came prepared to challenge the landlord's figures and he hasn't got them."

**Mr. Epp:** Is there any direction given to landlords as to what kind of a statement they should come in with, and that it should be audited?

**Miss Hogan:** There's a very clear direction.

**Mr. Epp:** Have you ever terminated a hearing because you say, "The person doesn't have the proper information. Let's come back a month from now so that he can give us the information."?

**Miss Hogan:** Actually, I was very pleased several weeks ago, because I and the board member who was sitting with me had made a decision—I had chaired that panel, as I recall—where a landlord had come in with insufficient substantiation. It was just impossible to come to any sort of decision as to a rent increase that we felt could be substantiated, and on which the tenants could feel there had been a fair hearing. He did have a few things, as I recall, but it certainly wasn't enough to make a decision on. We gave a zero increase. We said, "No. You had proper notice of what was expected at this hearing. You have come without substantiation, we cannot make a decision." At that point we ended the hearing and gave a decision awarding him a zero increase. It went to judicial review.

**Mr. Epp:** A zero increase over six per cent, or a zero increase period?

**Miss Hogan:** Zero. That case was taken to judicial review by the landlord on the basis that we should have given him some increase on the information that was available. The divisional court upheld our decision and said that in our discretion we could award him a zero increase in that situation. I personally



don't see any reason why landlords cannot come prepared for hearings.

**Mr. Breithaupt:** How often would this occur, that a landlord seems to wander in without any reasonable package of documentation which allows you to get on with your work? Is this a frequent problem, is it less than it used to be? What would be your judgement on that.

**Miss Hogan:** It happens often enough. I am trying to put some kind of figure on it, but I can't. It happens a fair bit, in my opinion. Certainly too often.

**Mr. Duksza:** Does it happen more often at the lower level?

**Miss Hogan:** I don't know. I would think that if landlords were coming to us with insufficient documentation, then I cannot believe they've had it for the initial hearing. If they don't have it for us, it's not likely they've had it for the lower level.

**Mr. Duksza:** Then in fact their statement at the lower level is accepted on face value without substantiation in terms of some kind of objective recommendation.

**Miss Hogan:** I think tenants could accept certain rent increases. Obviously, there are concerns around repairs, level of services, that sort of thing. But if a landlord can document exactly what his expenses were and show that they were in fact done, then tenants are reasonable. The tenants can then understand the basis on which a decision was made.

[12:30]

**Mr. Breithaupt:** It seems so curious to me that a landlord would come in without that information because he or she is obviously wasting his or her own time, much less that of everyone else involved.

**Mr. Duksza:** It hasn't worked quite that way at the lower level. I don't know about this level. Cases have nevertheless, been prejudiced.

**Mr. Samis:** I just have two quickies. Mr. Charlton almost asked one of them. I am just curious to learn from your experience how you find this idea of two people rendering a judgement. It's a fairly novel form of doing it, I gather, not being a lawyer. My second question would be to Mr. Batchelor. From your experience, would you suggest or make any administrative changes yourself to improve the efficacy or efficiency of the appeal process?

**Mr. Breithaupt:** The Municipal Board works in that same frame.

**Mr. Samis:** Can I just ask your answer to this concept of two people making a decision?

**Miss Hogan:** At first, I must admit I was taken aback as to how it was going to work because of the problems of disagreement among the members. Actually, as far as I know we have not had very many deadlocks where the members just could not agree with each other. I think it has worked. I am not sure that is always the best way of doing it.

**Mr. Samis:** If this appeal process were to be continued, would you recommend that it be continued on the basis of a two-person format?

**Miss Hogan:** It's a bit unusual in terms of having one tenant representative and one public representative—they're called public but often they are seen as a landlord representative—without a sort of neutral person in the middle, although how one gets a neutral person, I'm not always sure. This is a personal opinion, but I favour some move towards an amalgamation of the Landlord and Tenant Act and the rent review Act, so that we are looking at a different sort of panel or tribunal or even housing court.

I think Mr. Robbins mentioned this very briefly. Often we hear complaints by tenants or by landlords for that matter that are really the subject of the Landlord and Tenant Act. They get to the hearing and they want to talk about certain things, even the level of repair. If it's not exactly a monetary thing, we have to say, "Look, that's not within our jurisdiction. There are other places to go, for example, the county court." The tenants don't understand that and I sympathize with them. They have to go to various places.

I think landlords too wish they could get their problems and grievances resolved in one forum. It is difficult for me to talk about what I favour in terms of a two-person panel, because I think if you are looking at the whole of the landlord and tenant and rent review situation, as this committee is, you really have to look very seriously at a tribunal or panel or court, as I say, that could deal with everything.

**Mr. Batchelor:** Mr. Samis, could I answer your question now?

**Mr. Samis:** Yes.

**Mr. Batchelor:** I concur in what Miss Hogan has said concerning the Landlord and Tenant Act. I was going to mention that myself because I have sat in on a number of hearings where landlord and tenant problems come up. We have difficulty trying to explain to the tenants why as a board we cannot resolve them and that we operate under a different type of legislation. If you want me to make a statement as to what I think would be a vast improvement in the operation of

any tribunal that you establish, if you decide to continue with some form of control, I think the board should be a small one and should be a permanent board. It should not be a part-time board as our present board is.

**Mr. Duksza:** As the time is almost finished, if we are going to continue on this, I wonder what the times of Miss Hogan and Mr. Batchelor are in terms of returning. I am absolutely dying to get in at least 40 questions. Can we possibly continue?

**Mr. Batchelor:** We can continue, if you would like us to come back after lunch.

**Mr. Epp:** I think that would be preferable.

**Mr. Duksza:** That's what I was hoping because clearly I have questions and others have questions.

**Mr. Chairman:** Shall we resume at 1:30?

**Mr. Breithaupt:** And perhaps our friends could return at 2.

**Mr. Chairman:** Or vice versa.

**Mr. Breithaupt:** Mr. Chairman, I have to leave to return to Kitchener about 3. If we could deal with the consultant matter first, perhaps it would be prudent to resolve it then, if that's convenient.

**Mr. Chairman:** Shall we resume at 1:30 then?

Agreed.

**Mr. Walker:** As that is a matter of personalities, Mr. Chairman, we should deal with that in an appropriate manner.

**Mr. Duksza:** What do you mean by appropriate manner? I don't understand that.

**Mr. Walker:** In camera.

**Mr. Chairman:** I think that is a good suggestion. We'll start in camera at 1:30 and then be open to the public as soon as possible thereafter.

Agreed.

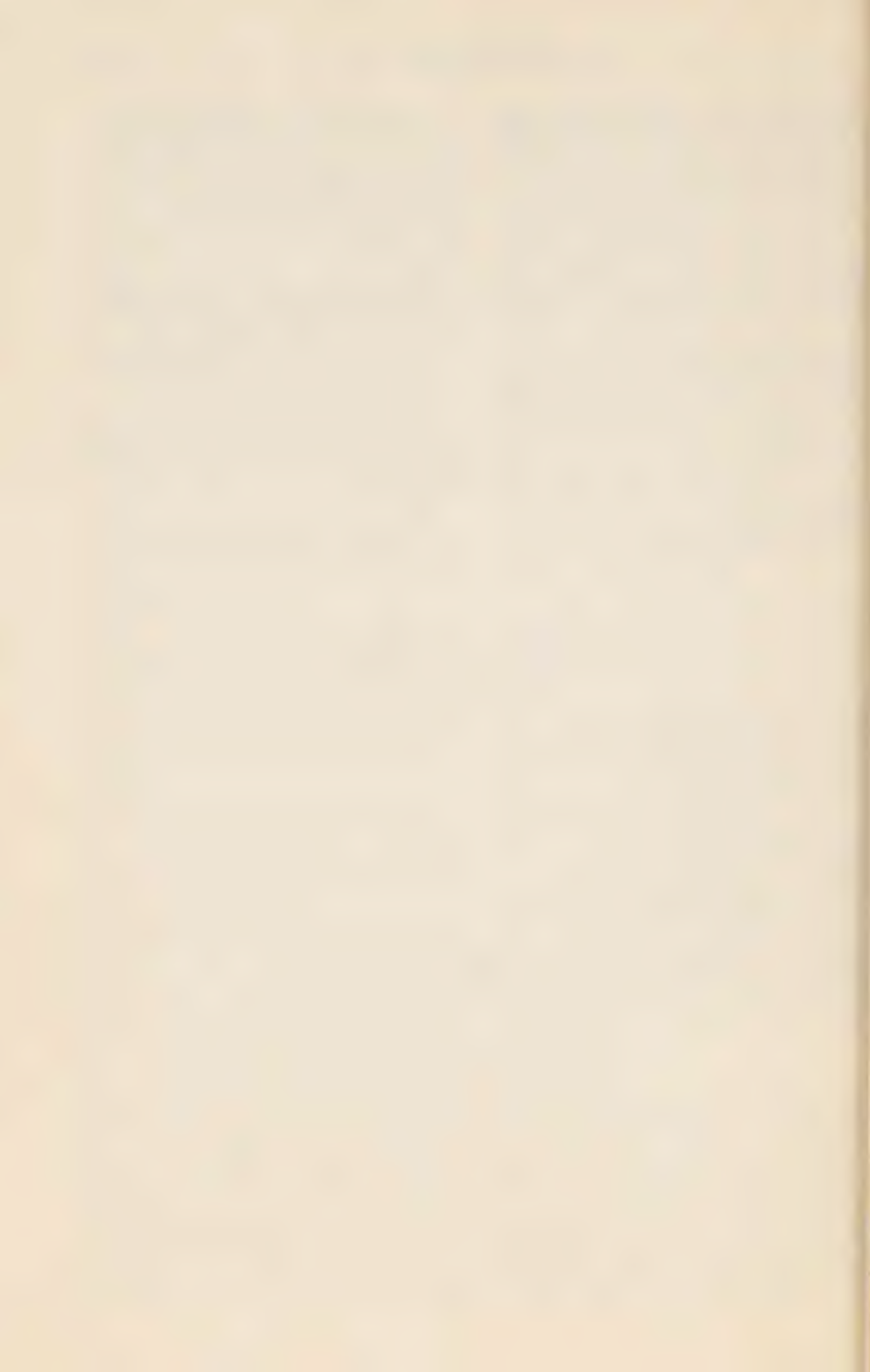
The committee recessed at 12:36 p.m.

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### From the Ontario rent review program:

Robbins, W. M., Executive Director, Ontario Rent Review Program  
 Batchelor, G. T., Chairman, Residential Premises Rent Review Board  
 Hogan, M., Member, Residential Premises Rent Review Board







Ontario

Governance  
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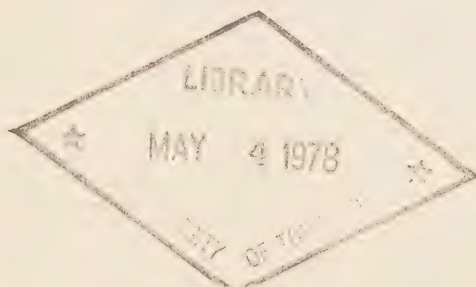
No. G-4

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



**Second Session, 31st Parliament**

Wednesday, April 12, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

WEDNESDAY, APRIL 12, 1978

The committee resumed at 2:20 p.m.

## TENANT PROTECTION

(continued)

**Mr. Chairman:** There were some questions the committee members wished to ask and the board staff were kind enough to agree to come back. They have been waiting patiently for us to finish up those other general things.

**Mr. Charlton:** Before we broke you were mentioning that to a large degree it was sometimes difficult for tenants to make good presentations in terms of picking apart landlords' cost revenue statements and so on. You also mentioned that occasionally or frequently, I'm not sure which, tenants would come in with community groups that represented them. Do you feel that those community groups and access to those community groups evened up the odds somewhat?

**Miss Hogan:** Yes and no. I think the people from the groups, and the clinic too, who are representing the people do an excellent job. I still think a landlord's complicated accounting and bookkeeping system can be very difficult to crack. I certainly think it assists to a very great extent. Something I would like to see continued is access to people like that for such things as rent review hearings and landlord and tenant matters as well.

**Mr. Duksza:** What kind of access? This is supplementary to the question.

**Miss Hogan:** The whole problem of Legal Aid and community legal clinics and that sort of thing is a different topic altogether, but most of these people came from groups like Parkdale Community Legal Services, Neighbourhood Legal Services, Tenants Hot Line. They're the people with the expertise in these matters. There certainly aren't enough of them to go around. There are no organizations like that, really, in the rest of the province. So there's limited access.

Under the Act, section 19, subsection 3 says: "The minister may engage persons to provide professional, technical or other assistance to rent review officers, the board, or persons appearing before a rent review officer or the board."

That section has been used, both by the program and by the board, and I assume it probably has to do with budgetary constraints, to engage assistance for the board and for the program. I would argue it is open, under that section, for both the program and the board, to have available to tenants people with the necessary expertise, because it talks about "persons appearing before a rent review officer or the board." As I say, I imagine it's a budgetary constraint and that's why it hasn't been done, because obviously that would be additional expense.

**Mr. Duksza:** You say it hasn't been done?

**Miss Hogan:** No.

**Mr. Duksza:** But there is the potential to do it?

**Miss Hogan:** I think so.

**Mr. Duksza:** Why hasn't it been done, may I ask?

**Miss Hogan:** All I'm saying is I would assume it had to do with budget constraints, because obviously it means hiring other people and that's money. I know there are now severe limitations on our budget at the board.

All I can say is that if we're looking to the future I think access to the types of groups I was talking about before—continued and expanded access—is necessary. I also think another way of dealing with the situation is to provide people through this section—I assume things could be changed but at the moment this section exists and it could be used as well.

**Mr. Duksza:** But it has never been implemented.

I was struck very much by what you said, that some of the more powerful landlords come prepared with a whole array—batteries of accountants and lawyers and things. That puts the tenant, especially if the whole group is only represented by one or two tenants, at a significant disadvantage in arguing their case.

**Miss Hogan:** It's a very complex piece of legislation and I think it's very difficult even for board members or rent review officers to work their way through all the financial and legal implications. We've obviously



learned as we've gone through it. It's even more difficult for tenants to come without the needed expertise and to be able to challenge effectively the landlord's material.

**Mr. Charlton:** The reason I raised it is that that's something in addition to the whole range of questions this committee is supposed to be considering. We're going to have to consider also whether we stay with the system we've got or whether we get into a combined system of landlord-tenant rent review, all in one package—whatever. There has to be some vehicle for expertise in the application of whatever kind of package we're in, especially on the tenant's side.

We had a group in Hamilton, the Housing Education Service, that was doing excellent work in both the landlord-tenant field and in the rent review field. It went under for lack of funding and that expertise is gone.

**Miss Hogan:** I think that's very critical. There aren't that many people who know that much about the area. Certainly the level of knowledge is increasing, but there aren't that many experts around. Really, so much of the expertise at the moment lies in the type of services you are talking about. A lot of them are having very difficult funding problems at the moment and if they close down or if they face even more severe budget constraints, then the situation gets worse for tenants.

[2:30]

**Mr. Epp:** I just want to pursue section 19, subsection 3, for a moment. You alluded to it a bit earlier, Miss Hogan. It was mentioned here that this particular section had never been employed. You never mentioned whether there had been any requests for it. You mentioned the limitations. If you did mention it, I didn't hear it. I am just wondering had there been any requests for it which had been turned down on the basis of an absence of money or so forth.

**Miss Hogan:** To my knowledge, at the beginning of the program there were a couple. I think this was probably before I was appointed to the board. I think it was in May that I was appointed. I remember working with the Federation of Metro Tenants' Associations on the whole area of rent review and the Landlord and Tenant Act. I can remember communications going out from that organization requesting this sort of assistance. I honestly can't remember whether there was a response and, if there was one, what it said. All I can remember at this point is that there were some.

**Mr. Epp:** Do you know whether there were many requests of this nature and whether they would have had to get some supportive evidence or some supportive material for their requests? How would these requests be processed?

**Miss Hogan:** As far as I know, the ones from the federation were general requests asking that the minister employ staff people who would be available on a full-time basis to tenants' groups or for that matter, to small landlords who don't have the access to accountants and lawyers that the bigger ones do—somebody with a triplex or fourplex, for example.

**Mr. Epp:** You are only aware of a few requests. Would there have been a hundred requests? I am not trying to put you on a spot because Mr. Batchelor maybe can answer us if you can't. I am trying to get the information generally rather than from one specific person.

**Miss Hogan:** No. All I know is that the one I am familiar with came from the federation. It probably went to the program rather than the board. It was a general request that this section be used for that purpose. As I recall there was a response. I don't know whether it was in writing or oral. It came from the program itself. I don't believe there has ever been any communication from the board saying it was not interpreting that section that way and that the way that section was going to be interpreted was to provide staff people to the program and the board for our use.

**Mr. Epp:** Were their staff used?

**Miss Hogan:** We have staff people. We have accountants and we have a legal counsel who is available to give us support.

**Mr. Epp:** To give assistance to the tenants and others.

**Miss Hogan:** To give assistance to the board members.

**Mr. Epp:** Let me read the section, "The minister may engage persons to provide professional, technical or other assistance to rent review officers, the board or persons appearing before a rent review officer or the board." I am wondering, if this was put in in all good faith, why it would be included, when the minister unilaterally decides he's not going to supply funds for this purpose and says: "Irrespective of what the Legislature does, to hell with the Legislature, I will make my own decisions. I am not going to provide any funds for this." I think that's somewhat undemocratic and it's

certainly violating the spirit of what the Legislature passed a year or more ago.

**Miss Hogan:** I think it's clear from reading this section that it's certainly open to provide that sort of assistance. Why it wasn't done, I don't know.

**Mr. Duksza:** Have you seen the regulations? It's often in the regulations. Has it been worked out in the regulations?

**Miss Hogan:** There is nothing in the regulations as far as I know.

**Mr. Duksza:** I think that's a good point.

**Mr. Epp:** Pardon me, but don't you think that it is reasonable to assume that the ministry should provide this information, Mr. Batchelor?

**Mr. Batchelor:** It is a question that has never come up during my time as chairman. As Miss Hogan said, she believes it was directed to the program. I don't know what happened between the minister and the program. The question of whether it is reasonable or not is one where I wouldn't want to snap my fingers and answer because the question always in the situation is whether there is a cost involved in something like this. We have a chartered accountant and legal counsel at our disposal as a board for special advice and special situations. I call upon them to get advice for the board when we get a complex accounting problem or something that is very complex in a legal way. But at no point in time has anyone ever requested me since I have been chairman, or to the best of my knowledge the former chairman, for any action under this section. So it may be as Miss Hogan says that it's been common to the program or between the program and the minister. Some policy decision may have been made. The question of whether it is reasonable or not is a matter for you or the Legislature or the minister to determine. But I see no objection to that being available in certain circumstances.

**Mr. Epp:** Can I clarify one other thing? You said you were chairman, but the chart here says you are acting chairman. May I clarify that? Are you acting chairman or are you chairman?

**Mr. Batchelor:** I am the chairman. On the retirement of Mr. Bruce and at the end of December by order in council, I was appointed chairman.

**Mr. Epp:** I have been here only since June 9 and so I don't have all the answers. I am not arguing whether it is reasonable to make a lot of funds available or not, but this was included in legislation, so I would think the

members of the Legislature who made the decision assumed that funds would be made available. Otherwise there would be no need to put this in. If they weren't going to make funds available it shouldn't have been put in—that's all—and that's not your problem. It's really the minister's problem, and maybe we should ask in the Legislature why that was done.

**Mr. Duksza:** Although it is not Mr. Batchelor's or Miss Hogan's or Mr. Sagoo's problem, it does indeed concern this committee. We are discussing the way the legislation was passed, the intent of the legislation and how it has been applied, so I think we should discuss it. I want to read something into the record which concerns me somewhat about the behaviour of the minister in respect to that very section.

If you allow me, I can read it and then we can comment. Maybe it would have to be taken forward to somewhere else but it is essential to have this as part of the evidence. The letter is from—

**Mr. Chairman:** We have two other speakers—Gord Smith and then Mac and we will come back—

**Mr. Duksza:** It is just that on this—

**Mr. Epp:** Yes, I still have some more questions.

**Mr. Duksza:** Yes, this is a supplementary, and then Mr. Epp can continue with his questions and then, of course, the others will speak.

The letter is from the Minister of Consumer and Commercial Relations, Mr. Handelman, and it is dated May 6, 1977. It is addressed to Miss Margaret Gittens of the Barbara Apartments Tenants Association at 730 Ontario Street.

"Dear Miss Gittens: Please accept my apology for the delay in responding to your letter of March 22. As you are undoubtedly aware, I have been particularly busy of late with the amendments to the rent review legislation.

"It has been my personal decision that financial assistance in engaging professional or technical personnel to assist tenants at the hearings should only be granted when there is a clearly defined need on the part of the tenant or tenants concerned. In this respect, I think of the individual tenant in need of translator's assistance or of a blind, mute or otherwise disabled person. I do not feel that section 19(3) should be used for the purpose of allowing a group of tenants to engage accounting or legal representatives since it is clearly the duty of the third party, the rent review officer, to assist the tenants



and landlords in understanding the proceedings and the issue at hand.

"The first hearing for your apartment has already been held and I am advised that tenants were represented by a competent official of the Federation of Metro Tenants' Associations. I am also advised that tenants felt the hearing had been conducted fairly. For these reasons, I must decline your request for financial assistance."

There may be many reasons why the minister responded this way, but I would say he clearly misunderstands the nature of the section involving counsel providing assistance—or he ignores, if I may be so brutal, the letter of the law.

I am not sure what to do with this at the moment, as we are conducting a hearing. Perhaps the only supplementary question I could have is to ask whether Miss Hogan or Mr. Batchelor or anyone else could comment on the subject for the people who are there. Would this section need to be implemented? Have you come across a number of cases which would benefit from the implementation of the section? Have you seen cases where a potential miscarriage of justice by omission, not by commission, could have occurred?

**Mr. Chairman:** It may not be inappropriate to ask the then minister to come sometime and explain a letter like that.

**Mr. Batchelor:** I would just point out, Mr. Chairman, that acting on my own authority in a situation where we had a request that a hearing for certain people be conducted in French, we provided the individual from our own staff to do that—at no charge to the people involved.

**Mr. Duksza:** Yes, I think he excluded specifically a translator or assistance if one is blind, mute or otherwise disabled.

**Mr. Chairman:** Mr. Handleman and I spoke on another matter this morning but I think he would think it appropriate that he be requested to come, if you want to follow that up some time.

**Mr. Duksza:** I think this is the only way I can deal with it right now, because I am not preparing a motion. I just wanted to put it on record that I think there has been an instance where people have been saying that maybe this section has not been implemented to such a degree. Back to you.

**Mr. Epp:** It doesn't matter to me who answers this, but how are members of the board paid?

**Mr. Batchelor:** I think I should answer that, as chairman. They are paid on a per

diem basis and they can be paid on a half per diem. In other words, if they sit for half a day they get half a per diem and if they sit for a full day, they get a full per diem. If they sit as a chairman, they get more than sitting as a member.

**Mr. Epp:** What are the amounts?

**Mr. Batchelor:** The amounts are \$125 a day for the chairman and \$85 a day for a member.

**Mr. Epp:** That's for just the hearings themselves?

**Mr. Batchelor:** That's for the hearings themselves.

**Mr. Epp:** Are they given briefing material the day before or something—

**Mr. Batchelor:** At the present time they are, but this has not always applied. As Miss Hogan so properly described, this was because of budget constraints that were placed upon us. But I now have the staff doing the preparation in complete detail for the board members. The board members themselves can do any additional work or checking of the file before the hearing that they may wish to do, but they receive no payment for that. However, the present schedule of payment is that if they sit for one day, they get one day of payment for the work in connection with any preparation or finalization of that particular hearing. But they would not be paid if they happened to sit as a chairman. When they are working on it, they are paid as a member, not as a chairman on the day that they work on it.

**Mr. Epp:** So that there could be two members and one of the two members is a chairman of that—

**Mr. Batchelor:** But just paid as a chairman when he sits. When they both work on the material following the meeting, they are both paid as members.

**Mr. Epp:** How many members do you have that serve in one capacity or another?

**Mr. Batchelor:** At the present time we have around 28 members who are active. The reason I say active is that with the number of hearings that we have—I mentioned earlier how many hearings we were having—we were using a full board at that time. It is impossible to spread the work over 48 people when you have 20 hearings a week, so you have to use the members of the board who have been sitting most frequently, in the opinion of myself as chairman, who are qualified to handle those particular hearings. I have to make that as a discretionary judgement decision. It is not



possible at the present time to be using all board members, and the members know that I have written to those who are inactive and told them if the board work should escalate they will be activated again and brought back into the scheme of things.

**Mr. Epp:** You speak about a shortage of money. How much money is allocated in the estimates for this?

**Mr. Batchelor:** We have \$750,000 from April 1 until the wind-down period. Considering that there would be a wind-down period, we figure that would go into February of next year. We started out with an original request of \$1.25 million. We were knocked down \$500,000 so we really don't have money to throw around.

**Mr. Epp:** To February 1979, eh?

**Mr. Batchelor:** That's right, yes, and it would be to clean up the existing work under existing legislation.

**Mr. Duksza:** You may not have money to throw around, but do you have enough money to continue work efficiently and in respect to all the things that need to be done?

[2:45]

**Mr. Batchelor:** I have enough money to operate efficiently. I should also point out, when you asked about whether I was now chairman, that I am not chairman in the sense that I do not work a full week; I am not working at this full-time. I advised the minister at the time of the appointment that I could do this job on a part-time basis. A part-time basis means that I go into the office every day, but I don't stay there all day every day. I only charge for the time I am actually there, the same as a board member, for half a day or for full day, depending on whether I work a full day or not.

**Mr. Epp:** You mentioned earlier, Mr. Batchelor, that the staff is compiling materials and so forth, I suppose for the various board members when the hearing comes up.

**Mr. Batchelor:** Yes.

**Mr. Epp:** So they are obviously taking the the most important material and making that available to the board members.

**Mr. Batchelor:** Actually what they are doing is summarizing the file for the board members. In other words, they are telling the board members, from an accounting point of view, that certain items may need to be given special attention, and that directs the board members to that particular item. For example, taxes would be considered to be a normal

item; if the landlord has the tax bill for last year and the tax bill for this year, that is obviously well answered by that.

But, getting back to what we were talking about earlier—maintenance, repairs and things like that—there may be a large sum there just lumped in one sum, and it may be that the board members may have to search out by inquiring of the landlord how much of that is current, how much of that should be placed over in capital and written off over a number of years. The board members search that out themselves, but the accounting staff may direct them to that.

Our other staff will look at it from the standpoint of the legal aspect: Were the forms filed within the proper time? Are all the proper forms there? That will be indicated on the preparation sheet for the board members. They can look and see if the staff has done it properly, but it is done for them to help save them the time of doing that. At one point in time they used to do that themselves.

**Mr. Epp:** Did the board members request that this be done?

**Mr. Batchelor:** No, I considered that it would assist the board members to have some of what I call the clerical work done for them. My experience in any other board has been that there is some preparation done by staff to assist the board members prior to the actual hearing. I saw no reason why this should not be done and I implemented this since I became chairman.

**Mr. Epp:** So the board members have access to all the material if they want it?

**Mr. Batchelor:** They have it all on file. The complete file is before them, except that work which I consider to be of a clerical nature is done for the board members prior to the hearing. They can take that out and double-check it or they can do anything they want with that file; but they have the same file in front of them, only some of the work has been done for them.

**Mr. Epp:** So they have the complete file in front of them.

**Mr. Batchelor:** They have the complete file. They just don't have a sheet with a summary; they have everything in front of them.

**Mr. Epp:** One other question: Could you comment on the fairness of the fact that there is no allowance for return on investment for the landlords?

**Mr. Batchelor:** Mr. Chairman, I don't really feel I should really comment on whether that is fair or not fair. The situation is that

it is not provided for now and, with great respect, I would consider that this is a problem for your committee to determine what should be done with this if you're going to continue with some form of control. This is an issue that has not been addressed and, as I say, it should be something that your committee deals with.

**Mr. Epp:** I just have one more question: Assuming there are members of the board who wish to appear before the committee here, would you have any objection to them appearing before the committee?

**Mr. Batchelor:** I would have no objection to their appearing before the committee, but what I have done is, I took the initiative on this as soon as the green paper came out and wrote to all board members, sent a copy of the report to them and asked them to submit comments on the report to me. I have received one reply. I sent out a follow-up letter because I understood you were going to sit for the next six Wednesdays and I asked any board members who have not submitted any material to submit it to me by May 1. My intention is to send it on to the minister with the request that the minister summarize the material but not necessarily identify the board member who submitted it. I intend to make a submission myself and the—

**Mr. Makarchuk:** Are you sure we are going to get the real material at the end, that which you submitted and what the minister gave us?

**An hon. member:** He's been reading the paper in the last day or two. And that action isn't too far from here.

**Mr. Batchelor:** As the chairman of this board, I consider that while we are expressing ourselves here, we are expressing ourselves within certain bounds and certain limitations and we are not going to tell you that you should adopt a decontrol program or something else. I think if a board member addressed your committee and his remarks were interpreted as tenant-oriented or landlord-oriented, that he would be in a very difficult position if later on he was scheduled to sit at a hearing and somebody said: "Well, certain remarks have appeared in the press, Mr. So-and-so, and you addressed yourself to this situation. It appears that you are biased, either one way or the other by those remarks and I object to having my case heard by you." And I can see that possibility.

**Mr. Duksza:** That is rather refreshing because Mr. Robbins, who is your boss, did not show the same caution in his letter to

the Hon. Larry Grossman. In the beginning of this letter he said "post" when he defines appropriate cost in the "post rent review period." It shows his bias, I thought, rather clearly.

**Mr. Batchelor:** Well, I personally am very concerned about that—

**Mr. Duksza:** Believe me, I am even more concerned by Mr. Robbins' remarks, because it biases the whole book for me.

**Mr. Chairman:** Mr. Robbins spoke to that this morning. He spoke well and candidly to it and it would be worth it—I'm not being facetious—to look over the transcript. He made his point that the control period, as we know it, does end at the end of December and that was in fact what he meant.

**Mr. Batchelor:** But I consider ourselves in a different position from Robbins and his staff. We are board members appointed by order of council and therefore we are a quasi-judicial body and we are sitting in judgement of cases. If we were to indicate a bias here to you—and if any other board member came here and maybe unwittingly committed himself in some way—then it could very well be that at another hearing if the tenant or the landlord felt that individual was biased by remarks he made before your committee, then they could very well challenge that person sitting on his hearing.

**Mr. Epp:** Are you a member of any hearings?

**Mr. Batchelor:** When I was vice-chairman, I used to sit on a regular basis. Since becoming acting chairman and chairman, I have sat on only a few cases, one a rather large case where it was a jurisdictional matter, an involved matter of law. I felt it was one I should sit on but normally my duties are administering the office, looking after the board members, their assignment of hearings and determining, for example, the most appropriate board members to sit on the hearing by virtue of the type of hearing it is. So there is considerable work involved from an administrative point of view and that is what I address myself to, and the former chairman, Maxwell Bruce, did the same thing. He did sit on a few hearings but he didn't sit on many.

**Mr. Epp:** I guess, getting back to my original question, you wouldn't prevent any one of the officers or board members from making a comment.

**Mr. Batchelor:** The fact that I myself initiated the idea of having them make their submissions for me to pass on to the minister



for transmission to this committee indicates how I feel in that regard. I wish to have them do it but this is strictly a voluntary thing, in so far as my letter was concerned. They are not asked to do it. They are told that if they want to do it, they may do so.

I believe Miss Hogan and Mr. Sagoo will be making some comments on the paper. I hope you can appreciate the position. If one comes out and strongly writes a submission directed towards the tenant situation and another directs it towards the landlord situation, how difficult it would be for me to assign that person to a hearing without feeling that person was biased by virtue of what he put in that submission. So I would think the minister should put in all of what is sent to him—and I don't expect he would do otherwise—but not necessarily attach a name to it.

**Mr. Epp:** At the same time I think you would agree with me, Mr. Batchelor, that it is conceivable they could direct their thoughts and their views towards certain areas of the rent review program without taking either a pro-tenant or a pro-landlord position on this.

**Mr. Batchelor:** I think the three of us here, in addressing your committee, have not shown any bias one way or another in dealing with the matter. But I can only say that if you want to have that board member to appear before you, address the request to me and I'll arrange it. But I only caution in that particular area because some people are more used to appearing before committees such as this—and Miss Hogan, Mr. Sagoo and myself have had a lot of experience in this area. It's different if you get a board member who maybe hasn't had quite as much experience and is maybe nervous and might say something afterwards that he or she might regret.

**Mr. Epp:** No, I appreciate that. We wouldn't want to compromise their independent position, but at the same time I did want to get a statement to say that if they wanted to appear they could.

**Mr. Batchelor:** Yes, well that is quite all right.

**Mr. G. E. Smith:** I may have missed this point but I'd like to ask Mr. Batchelor how many support staff he has.

**Mr. Batchelor:** At the present time we have approximately 27 support staff.

**Mr. G. E. Smith:** Are they basically legal and accounting staff?

**Mr. Batchelor:** No, the legal and accounting staff I mentioned are ones we bring in

for special assignments. They are paid according to the time they work. For our own staff, the title of registrar is used, but the registrar is like an administrative assistant. I have a special assistant, who assists me on certain matters; there is an assistant registrar and there are two accounting staff and the rest are strictly clerical staff from Office Overload, for example.

**Mr. G. E. Smith:** According to the report and what you are saying, there are fewer hearings. Do you find that is an adequate support staff under the present system?

**Mr. Batchelor:** It is an adequate support staff under the present system and I am constantly monitoring the staff situation to see what our needs are.

**Mr. G. E. Smith:** Perhaps I could ask one more question, Mr. Chairman, either to Mr. Batchelor or Miss Hogan. How frequent is it that when a landlord appears before you he is represented by counsel?

**Mr. Batchelor:** Well, it varies from situation to situation. You say how frequent: in my opinion, it is more frequent on the hearings I have sat on, that he is represented by an accountant rather than by legal counsel. I don't know if Miss Hogan would agree with that.

**Miss Hogan:** Yes, probably. But we do see a fair number of lawyers.

**Mr. G. E. Smith:** I suppose it is only the larger tenant groups who have professional help. I think this is a point you are making, but I just wanted to clarify that. Do most of the tenant groups or individuals employ professional staff? I am just trying to balance it out. At most of the hearings do the landlords represent themselves and tenant groups likewise or is it outbalanced?

**Mr. Batchelor:** Mr. Chairman, the answer is that most of the large landlords will likely be represented by legal counsel and maybe a chartered accountant or their own staff accountant. The tenants will mainly be without representation unless it is from the sources that Miss Hogan gave. On one occasion I sat on a hearing where there was a lawyer on both sides and accountants on both sides, but that is an exception rather than a rule.

[3:00]

**Mr. Makarchuk:** When you analyse the statements being submitted by the landlords, do you insist, or has there been any effort on the part of your group to get a standardized statement? The landlords can submit statements in different forms—admitted there is some similarity between the statements—



but has there been any effort to obtain a standard statement, in other words, so that the tenants would understand what the landlords are talking about and so you would have a better idea how you could analyse the statement?

**Mr. Batchelor:** Well, the statement is a cost-revenue statement; in fact I believe Mr. Robbins held one up here today.

**Mr. Makarchuk:** Right, what you have is the standard form. But then they submit their own statements in addition to that as supporting evidence.

**Mr. Batchelor:** All that they would submit as supporting evidence would be bills they have paid. In other words, if there is an item of \$40,000 on maintenance and repairs, a good landlord would have that all broken down so you could total it up and come to that sum. You will find sometimes that it's under a certain column and it shouldn't be there, it should be capitalized and written off over 20 years. So if you are a board member you take that one out and move it into the other column.

**Mr. Makarchuk:** Right, but do you have the opportunity to look at that? How do you know this is exactly what is happening—that this is a capital item that should be applied someplace else, and it's not maintenance or repairs?

**Mr. Batchelor:** We know by the guidelines that we have what would be a capital item. I could give you a few examples: a new roof; a swimming pool; a new furnace; something that has a life expectancy of, say, five years and up. Other than that you would consider it to be a current expenditure which has a short life expectancy.

**Mr. Makarchuk:** What if you go into consultants' fees, or management fees and things like that? How do you analyse those as being valid charges?

**Mr. Batchelor:** This is something we allow. This is something the landlord has—for example, if the tenant appears in the case I mentioned, where there are legal counsel and accounting on both sides, the landlord is allowed to charge for that and put that in his expenses.

**Mr. Makarchuk:** I know he is allowed to charge for the lawyer he is using for the hearing, but I have seen other statements where a consultant's fee or management fee et cetera is provided. What puzzles me is that you really don't know. The management fees can be the landlord's charges that he can take out. In other words, if you are going to try and assess his profit on the

property—you know, he'll have the normal profit and loss on his property—then in addition to that he can have management fees, his mother may hold the mortgage on it, there are all sorts of combinations, permutations and variations to all these things. Do you have an opportunity to go into some depth on these things? Or do you accept them on face value?

**Mr. Batchelor:** Yes, we do go into them. I can answer your question but Mr. Sagoo has been here all morning and he is very experienced. I'd like Mr. Sagoo, if you don't mind, Mr. Chairman, to answer at least one of these questions. Mr. Sagoo.

**Mr. Sagoo:** As the chairman mentioned earlier on in the introduction, I was deputy chief whip of Her Majesty's government in Kenya—in the good old days—and that was for seven years, and was nominated by three successive governors for special talents which I am still in the process of discovering. However, I was connected with rent review, its inception, its introduction and its successful administration, for eight years.

Having said that, that was one of the qualifications by which I was appointed by the Lieutenant Governor in Council on cabinet recommendation to this board, which I consider an honour. I would like again, at the risk of repetition, to point out that that particular section, section 12, states that at least one half shall be persons representative of tenants and goes on to say "two members of the board, one of whom shall be a representative of the tenants." I think the legislation at that time had this in mind that, because this is a tenant protection measure, at least half of the members should be representative of the tenants, so that the large corporations and what have you may not exercise undue influence in getting their members nominated to it. If you read it very closely, it does not state who the other members should be. At any rate, one of the qualifications is that a tenant member is one who happens to be living in rental accommodation or who owns his own house. But he does not own another property in addition to that from which he derives a monetary gain. That was for clarification.

Having said that, I would like to go on and state that regardless of the fact that one is labelled a tenant and the other has no label at all—that is the way I look at it—both of them are totally impartial, unbiased and unprejudiced in their deliberations. I say that most emphatically. It is unfortunate that this stigma has to be borne by some of

us here. In other parts of the world, and especially under the Kenya Act to which I referred, which is derived from the British Acts, that is not the case.

Incidentally, the two members, be they tenants or otherwise, have what is known as collective responsibility. So it does not matter that one member is acting as a chairman and the other is just sitting as a member. He won't say, "Oh, well, he was the chairman and he can take the rap." No, you sink or swim together. That is very important.

It's very rarely that a difference of opinion arises. It arises on a discretionary matter rather than on a matter of law or on a matter of fact. I will come to the discretionary and non-discretionary powers for the benefit of the members.

The Act itself, if you look carefully, has two different segments to it. One is the legal one and the other is accounting or analysis of cost-revenue statements.

**Mr. Duksza:** I wonder if I might interject just one thing. I found what you're saying quite fascinating, and I accept totally that all of you are in fact above board in terms of integrity and everything else, but I didn't think that was what the member was asking.

**Mr. Sagoo:** All right, I am coming to that one. I wanted to stress that because I do not wish to leave any shadow of a doubt on that part, because I would hate to think—

**Mr. Epp:** Methinks thou dost protest too much.

**Mr. Duksza:** We have no doubt whatsoever. We are all men and women of goodwill.

**Mr. Sagoo:** Thank you very kindly. I may have scored my point. To come back to the latter. It was one of my fortunate positions to train the board members, especially in the cost-revenue statement, and those questions which arise out of it.

First of all, we have the cost-revenue statement itself. Very simply, there is a description of the property; the revenue that is derived from it; over the page it shows you the operating costs, and they are all spelled out clearly—insurance, heat, light, water, et cetera. And over the page further, capital expenditures, and then finally the financing arrangement.

Now, sir, your question was how do you sort out this thing about what you call capital and not expenses? Mainly, your question referred to the management cost itself.

We have a special regulation for management costs and this is for the benefit of small landlords rather than the major cor-

porations. They can if they wish claim the same percentage as stated. It states very simply that the management and administrative overhead should be computed as being not more than five per cent of the total net basic rent revenue. We work out the revenue in year two and then we allow five per cent off that. The reason for so doing is that—

**Mr. Makarchuk:** Five per cent of total revenue in that year?

**Mr. Sagoo:** Five per cent of total rent in that year is the management fee. And this has been worked out, we understand, in close conjunction with the management companies, the property dealers and the major landlords—that five per cent is a reasonable amount. The reason for so doing is so that you may go to Canadian Tire to pick up a few washers for a leaking tap, and some light bulbs, and something like that for the property and on the way back you come to Dominion Stores and you pick up your groceries, and things like that.

Well, what part of your time will you allocate to the management cost of the building and to your personal chores? How much transport is involved? How many postage stamps have you licked? How many phone calls have you made? All those have to be accounted for. Having got your five per cent—here is the supplement to it—"In practice if the landlord shows item 7(h) as just five per cent of the unit basic rent revenue then any other charge pertaining to management expenses—office staff salaries, telephone, stationery, general advertising—is disallowed." That is your management function and you are allowed five per cent for that.

**Mr. Duksza:** A supplementary question; So the five per cent is the total allowed to pass through.

**Mr. Sagoo:** Allowed to pass through—

**Mr. Duksza:** Right. Off the rent—

**Mr. Sagoo:** The management fee for the rental.

**Mr. Makarchuk:** Right. What do you do in the case of a building owned by somebody in Hong Kong? You absolutely haven't got a clue who owns it, in terms of what the corporate structure is, what the financing is—and I am sure you will be considering the financing when the rents are reviewed because let us say, the cost of the building, the unit cost, is such et cetera and so on, and they'll give you a set of figures. How do you know that those figures are correct, that really that is the cost? Do you do a square footage analysis of the building, do you compare the building costs, do you use



an averaging-out process, in other words, for these things?

Mr. Sagoo: It's very simple. It's all spelled out here, in the backup, as you see, that you have to itemize.

Mr. Makarchuk: I realize that, I am aware of that.

Mr. Sagoo: So what was the general question?

Mr. Duksza: I didn't think it was quite that simple. I looked at that sheet and—

Mr. Sagoo: Right; well, what is it? You gave an instance of Hong Kong, while I deal with Ontario.

Mr. Makarchuk: Let me give you an idea. You have a building that is owned by someone in Hong Kong, in Switzerland, or Germany, or something, which is not unusual, right here in Toronto. You are aware of that?

Mr. Sagoo: Right.

Mr. Makarchuk: They will give you a financial statement. They say, "Our costs of the building are so-and-so." Now, the first question that would come into my mind is is that a fair cost that they have given you for the building? And then they say, "Well, here are the figures. We bought it from this company in the Bahamas," which happens. The company in the Bahamas will sell it and that is the shelter over there.

So the figures that you have are not in any way related to what the costs of the land or the building or the construction costs are. This is submitted to you for analysis and for a review of the increase in rent—whether it should be increased more or less on the basis of these figures.

Do you make an effort to try to find out if these figures are inflated? Are these figures for intercorporate use in order to evade taxes and various other things, or are they figures to try to increase the percentage of rent? Do you get that kind of information? Do you really sit down and look at it that way?

Mr. Sagoo: With due respect, sir, you are thinking in terms of the return on the market value of the building. There is no such provision in the Act at all. There are only two provisions to which we pay attention, and those are spelled out in section 7(3a), and I'll read it:

"After the hearing of the application the rent review officer may approve the amount of the increase sought by the landlord if he is satisfied that increased operating costs and capital expenses justify the amount of the increase."

And the second is section 7(2b):

"Whether or not the increase in rent sought out by the landlord is necessary in order to prevent the landlord sustaining a financial loss in the operation of the building in which the residential premises are situated."

One is the operating cost, plus the capital expenditures, the other is the financial loss. I do not know where the market value of that building or the corporate structure or that enters into the question.

Mr. Makarchuk: All right. Let's look at the capital value of the building. That's in the Act. They submit a figure to use. They say this is the capital value of the building. Now, is that a fair figure? This is what bothers me. How do you analyse that?

Mr. Sagoo: With due respect, we are not concerned with that. We are concerned with what the operating costs, the utilities and the rest were last year and what is the increase that is expected. There are three columns here on the cost-revenue statement. One is year one, the other is year two, and then we have the projected year. Year two over year one is your cost experience and; projected year over year two is your cost anticipated. It has nothing to do with the capital. This is an option that is being offered to you under the green paper. Would you like to gear your rents to revenue? Then say so. That is not for me to say.

Mr. Makarchuk: Could you hear me out this way? You have a capital figure and to amortize that capital figure, you have a principal, a mortgage, you have to pay. You apply this principal and mortgage to your rents. We are getting back then. If the capital figure is inflated, then your rents are inflated. Then your principal is inflated and your interest is inflated. So then it becomes an unfair situation. Do you follow me? Do you check that kind of information?

Mr. Sagoo: First of all, that sort of information comes through the certified auditors and accountants. We attach a great degree of credibility to professional people, be they accountants or lawyers.

Mr. Duksza: That is the point we are making.

Mr. Makarchuk: That's the point we are trying to find out about.

[3:15]

Mr. Sagoo: Okay, fine. This is something that we do. Now, to come back to your point about financing, we go and initiate our own searches in the registry as regards the mortgages on the property concerned. I think



that would probably answer your question, and if there is any discrepancy in that one—

**Mr. Makarchuk:** No, I don't deny the fact—

**Mr. Duksza:** Miss Hogan, if you want to say something—

**Miss Hogan:** I see the point you are making. Certainly it does come into play when we are looking at whether or not there is a financial loss, because then the payments on financing become critical. We include interest as well as principal payments. Then I agree, if there was an inflated price paid for the building, we have an 85 per cent equity rule, but still, if you've got an inflated price, then that 85 per cent equity is going to be inflated as well. Certainly I would hope that most board members, and I would hope all board members, take a look at those sorts of things if anything looks unusual.

As Mr. Batchelor has said, the files are vetted first through the staff. Normally that is something the accounting staff will twig on and will say "Check this," or they themselves will check. After a while, those of us who have done a number of hearings get a sense of what is reasonable and what isn't reasonable. And if something looks a bit peculiar—and certainly it does sometimes—that's when we say, "We need a corporate search done on this company. We need a title search done here." We get that information.

**Mr. Duksza:** How do you get that information?

**Miss Hogan:** We can get that done through our staff.

**Mr. Duksza:** Through your staff. Will you allow a supplementary?

**Mr. Makarchuk:** Yes, I haven't finished yet. Go ahead.

**Mr. Duksza:** The question I have here is, suppose refinancing occurs in a building and then the people come back for a rent increase. Is it possible that those refinancing costs would be passed through in terms of rent increases? Would it be allowed at the lower level and then confirmed at your level? And if you notice this, do you take this into account?

**Miss Hogan:** First of all, I think you have to look at the reasons for the refinancing: Was it a necessary refinancing? Was it a way of getting additional moneys from the building which the tenants are going to pay in increased rents? Obviously, refinancing has to occur because mortgages come due and you have to refinance; so you look at the reasons for it and at the amount of money.

You also look at the type of refinancing: Is the interest rate reasonable? Is it the going rate? If not, what is the reason for a higher rate? If there is a higher rate and there is no proper explanation for it, then what should be done—what is done, normally—is that the market rate would be determined and would be applied to that sum of money rather than the rate that the landlord actually paid. Again, if he was putting an additional mortgage on or something like that, to use the funds elsewhere, then that sort of financing would not be included in the consideration of rent increases.

**Mr. Makarchuk:** In all these things, it seems to me about the only way you can have some assurance or some sense of what is going on is if you have a series of statistics or figures on construction costs, land costs and everything else; you perhaps build up a set of tables and find out how much the various projects you are considering deviate from the norm. Do you have that kind of information on file some place in your office right now so that it can be used or that you do use to compare these things?

**Mr. Batchelor:** No, we don't have tables of land costs and that, as you have put it.

**Mr. Makarchuk:** How about building costs or construction costs or per unit apartment costs, say for the centre of Toronto, the outskirts, Scarborough, Brantford, London, Hamilton, Ottawa? Do you have any of that kind of information?

**Miss Hogan:** We have figures for what are reasonable per unit costs for repair and maintenance, that sort of thing.

**Mr. Batchelor:** Mr. Sagoo has something here on this.

**Mr. Sagoo:** I can answer that question. We do have those costs. That information is public, yes. For instance, I can give you an instance of two adjoining properties and this was worked out as an exercise for cost-revenue imbalance. This is a word which is constantly being used, and an important one, in the green paper. We had a project which was built in July 1974, a very interesting one, and another one next door, built in August 1975.

**Mr. Makarchuk:** What did it cost?

**Mr. Sagoo:** In the first instance, at the date of completion, the unit cost of the first one was \$16,827.

**Mr. Makarchuk:** What size was it?

**Mr. Sagoo:** It was two bedrooms.

**Mr. Makarchuk:** How many square feet?

**Mr. Sagoo:** I haven't got the square feet because this is worked out on the basis of what you call the number of suites vis-à-vis the total cost and its financing.

I'm showing an example here of the same owner of two adjoining properties and how the costs vary. The second unit is \$32,288. This was financed, incidentally, by limited dividend. The first one has got \$3 million and the other one \$4,905,000, all within a matter of one year. The principal interest payments are \$227 to \$288, but to come to the point, the average monthly rent of the first apartment building is \$219, where the other one is \$243. The first building has no vacancy rate at all while the other one has 11.5 per cent vacancy rates because of that difference—

**Mr. Makarchuk:** I wonder, Mr. Chairman, for the benefit of the committee, if some of this information can be filed with the members of the committee. I would so move that it be done.

What I'm concerned with here is that in order for you to really know what you're doing you have to have some method of looking at that corporate setup. I'm not concerned about the little guy, the fourplex, the sixplex or something like that. You can see him, he becomes fairly obvious. You can look at his statements.

It's when you get into the large, multi-nationally-owned apartment blocks where you're dealing with funds that float from one jurisdiction to another jurisdiction, where you have two companies, one will be the owner and the other will be the financing company. They're within the same corporate group and they're financing each other and whatever they do is for their tax advantage and it doesn't really reflect, at least in my mind, the cost of the building. It doesn't reflect the cost of the rent or operating or anything like that.

If we're going to ensure that there is fairness, fairness in the sense that there is fairness for the tenant as well as fairness for the guy who invested his money, because I feel he should make a little as well, we have to have some of those figures available to us. I thought perhaps you would have, over a period of time, built up some kind of a table or some set of figures that perhaps we could use and look at these things to try and compare.

I'm sure, later on, we will be inundated here with a whole pile of people coming in, particularly builders, the UDI and so on, telling us about the various costs and things like that. If you examine these costs and if

you examine the figures they vary. There's a lot of room for, shall we say, scepticism in what they say. I think that kind of information can provide some sort of background material for us.

**Mr. Batchelor:** I'll get some information along that line ourselves and also speak to Mr. Robbins to give something from the way they operate at the program level and we'll file it with your committee.

There are a number of things that we do in so far as financing is concerned. I even sat on a hearing that was extended over two days where we actually investigated to find out who the shareholders were. We actually checked to see, particularly where there is a second mortgage on the back of the financing. The board members automatically ask a question: "Is this an arm's-length transaction?" We go into the financing very thoroughly. I'll get the information for you.

**Mr. Makarchuk:** In effect, what you're saying is that the possibility is there and on some occasions you've noticed this was what was being done.

**Mr. Batchelor:** Then we pursue it as board members and our staff pursue it when they think there is something there that they should draw to our attention. We will try to get something in the way of a formula that we have in our office and file it with you and I'll ask Mr. Robbins to do likewise.

**Mr. Chairman:** Just for clarification, Mr. Batchelor, when you were speaking to Mr. Epp and the question was raised as to whether you thought it was fair, related to the question of a reasonable rate of return on the investment, am I correct that you and your colleagues don't preoccupy yourself with what's a reasonable rate of return?

**Mr. Batchelor:** No, we don't get involved with that at all.

**Mr. Chairman:** So then it doesn't surprise you that they necessarily be preoccupied with those kinds of numbers, and I think we can get ample of those.

**Mr. Duksza:** Oh, but they do come into the whole question of which costs are passed and to allow for specific increases. That is, in fact, surely what we are talking about; whether it is explicit or not, it is there, isn't it?

**Miss Hogan:** If we are talking financing costs, the only time, as I indicated earlier, that financing costs should come into play is when we are looking at whether or not there is a financial loss, and if there is a financial loss then we are looking at financing costs,



and really that is the prime consideration. If there are increases from one year to another in terms of financing payments, that might have some effect, but generally the key is, is there a financial loss.

**Mr. Makarchuk:** But your interest is in the value the owner gets out of the building. He is in the position to charge a maintenance fee which will pay for a lot of things; he charges management fees which pay for a lot of things; there is a five per cent write-off on the building which is a tax-free allowance, and so on. When you add it up, what is a reasonable amount of money to get out of a building, when you put in all these other things it could be a very healthy amount, and if we are going to consider rent controls or rent review then these are the kinds of things we have to look at.

There is the visible portion of money that the owner gets out of the building but there is also the other portion which, because of the tax structure and everything else, also flows to him. The five per cent write-off on the building, that's clear money. It could amount to hundreds of thousands of dollars. In fact, it runs into millions. It's tax free. If an average worker was drawing that amount of money he'd be involved in a 70, 80, 90 per cent tax bracket, and the net amount that is left in his pocket would be very minimal in comparison to what this man has left in his pocket.

**Mr. Chairman:** I understand that. The reason I was asking to have it clarified just for me is that I felt on the question of maintenance fee and management fee that what we are talking about is a reasonable percentage of gross revenue. The gross revenue has nothing to do with his land cost, building cost or mortgage cost.

**Mr. Makarchuk:** No, but I think when we are going to look at the return to the landlord we have to bear in mind that he has these various options open to him to attract money to himself out of the project which does not really show that he is drawing it as a straight profit, and when we are considering the rents we will say, okay, we will allow him a certain profit on his investment, on his capital. But, in effect, his profit can be much higher than what is obviously visible.

**Mr. Chairman:** I am not saying those questions aren't germane to what the committee is all about, but I didn't think they were the kinds of questions that would occupy the—

**Mr. Duksza:** What is germane is, what are the acceptable criteria or acceptable categories of costs which may be passed

through to the tenant? That is one major question, and I direct it at Mr. Batchelor and Miss Hogan. What would be the acceptable criteria? Maybe you could sketch out for me what are the acceptable categories of costs. Secondly, which particular financial loss provisions are used in calculating any passthrough to the tenant? That really links with what Mr. Makarchuk was saying, because it is very easy indeed to manipulate the financial loss if you are a large company.

**Mr. Sagoo:** The hon. member has hit the nail on the head. The most difficult area is this discretionary area of financial loss. For all other things the thing is spelled out here; when you go to the utilities we know the mill rates, we know the hydro, we know the water, gas and oil; no trouble at all, no problem.

**Mr. Makarchuk:** I have a feeling that that is all you know for sure.

**Mr. Sagoo:** Right. Then, when you come to capital write-off you have got all those there spelled out for you. This is the area to which you should apply your mind to enunciate new guidelines for the financial loss. These are the renegotiations of the—

**Mr. Duksza:** What are the guidelines right now?

**Mr. Sagoo:** For financial loss?

**Mr. Duksza:** You call it discretionary or non-discretionary?

**Mr. Sagoo:** No, no, this is discretionary. The non-discretionary ones, this is clear cut, are your utilities and so on.

[3:30]

**Mr. Duksza:** What kind of guidelines do you use in the discretionary area?

**Mr. Sagoo:** This is what I am telling you, it is not clearly spelled out as a financial loss. All we have is that it would be written off over a period of one, two or three years. Let me give you a concrete example here. Supposing you had a revenue of \$50,000 from a property and your loss was, say, \$5,000, that's 10 per cent. Are you going to think to yourself, "Can I allow 10 per cent on that?" Take another example, that your loss was \$10,000 out of a property which was hardly \$20,000. You couldn't allow all that 50 per cent.

This difficulty arises at a time of new acquisition. This is very important when a property changes hands. We exercise great care. It has to be an arm's-length transaction; if it is not, then something smells there. As my learned colleague pointed out, we have that rule of 85 per cent equity. We



find this the most difficult area, and that's where the difference of opinion between two board members arises; one thinks we should allow a greater write-off and the other thinks not. You have to strike a happy medium between what the landlord can sustain and how much the tenant can bear. This is the most difficult area.

**Mr. Duksza:** The tenant should not bear the cost of the financial loss—

**Mr. Makarchuk:** Not unless he also gets the benefit of the profits.

**Mr. Sagoo:** After 1976 the new buildings don't come into the picture at all. If the new acquisition comes after the Act, that creates great difficulty, that is a tricky area.

**Mr. Batchelor:** Mr. Chairman, when you have a financial loss, the board members are faced with the question—and this is discretionary—of determining, should that financial loss be passed through in one year, two years, three years, or four years? In other words, they have to determine, based on the financial figures they've got in front of them, what appears to be a reasonable write-off period for that financial loss, and when Mr. Sagoo was giving you a more or less glaring example of \$10,000 and \$20,000, you would certainly not pass that through in one year.

**Mr. Duksza:** But you are passing it through over a period of years?

**Mr. Batchelor:** Oh, yes, it is being passed through over a period of time, but the board members are using discretion as to how to spread that over a number of years.

**Mr. Duksza:** The same loss can be claimed on another level, can't it? It's not only to be passed to the tenant; it can be claimed through income tax and in other places.

**Miss Hogan:** I was just going to say something you ought to consider—and it's something, in fact, that has bothered me—is that when considering a financial loss, something that as a policy matter has been included is principal payments, not only the interest payments but your principal payments. Tenants have argued, and they have argued quite vociferously, that they are paying through increased rents for the total of the landlord's principal and interest payments, and they are helping him, in fact, pay off the building.

As you indicated a few minutes ago, they don't share in the profits. It's quite true. If there are capital gains made on the building, of course, and I would say there generally are, then the tenants aren't getting any money back, they are not getting a rebate for the fact that they have helped, through

increased rents, pay off this principal, and that is a very great part of the calculation of financial loss.

**Mr. Duksza:** Are you compelled to take this into the calculation because of a provision in the legislation? Is that what you are telling me?

**Miss Hogan:** There is no provision in the legislation.

**Mr. Duksza:** Then may I ask why?

**Miss Hogan:** It's a policy matter.

**Mr. Duksza:** It's a policy. Where does the policy come from? Did you devise the policy or does it come from somewhere else?

**Mr. Batchelor:** I probably should mention that what Mr. Sagoo had in his hand is a rent review board bulletin. There are bulletins put out by the program in a different colour; bulletins of ours are usually this colour. I mentioned that Miss Hogan is an executive member of our board and we meet at least once a month, about every three weeks, and we establish policy on certain matters where there is no policy. We also liaise with Mr. Robbins and his staff. Although we are two separate bodies we try to establish policies that are somewhat similar. If there isn't a set of rules or regulations where they have to establish some policy, where there is nothing in the legislation or nothing to guide them but there is the need to establish a policy, then we try as much as possible to keep in the same area of policy thinking; but we don't always agree.

**Mr. Duksza:** You guessed my question. How much of a concordance is there between Mr. Robbins and you in terms of passing financial loss costs through increases in rent?

**Mr. Batchelor:** It would be somewhat similar, as I have indicated to you, where the rent review officer writes it off over a certain period of time. We actually try to have our policy thinking along the same lines because, as I think you can appreciate, it's important that the policy thinking of both the program and the board be on the same wavelength. So, since I have become chairman I have found it has been very co-operative and very close and we have been more or less able to accept each other's ideas on policy matters.

**Mr. Duksza:** But where does the initiation start on the financial loss, because that's what we are really talking about?

**Mr. Batchelor:** That started long before I became chairman.

**Mr. Duksza:** No; no blame attached to you. I am just curious as to how it works.

**Mr. Batchelor:** It originally started with a program, but where problems have arisen a rent review officer—and I shouldn't be speaking for Mr. Robbins—but where a rent review officer ran into difficulty in some situation, he would seek guidance from his senior representatives in the programme, and then they would have to devise some policy that they would apply to deal with financial loss or some other problem that is maybe not spelled out clearly in the legislation.

**Mr. Duksza:** It started some time ago, in fact, with the ministry. The decision was made to pass through the financial loss on principal and interest to the tenant. That's really what I am trying to establish, because I don't understand all these things about principal and interest; all I know is that if I borrowed some money I could pass the cost on to a tenant.

**Mr. Makarchuk:** That's the way they operate.

**Mr. Sagoo:** One point which might be of interest to you is on the matter of discretion. Two panels sitting on the same hearing, on the same case, within a matter of 3 months or so—because the differential is coming up—might render different decisions because one allowed a greater financial loss write-off than the other one. That's where the discretion comes in, and I think the new guideline is required to narrow that field of discretion; that's what I am trying to point out.

**Mr. Duksza:** New guidelines.

**Mr. Sagoo:** Yes.

**Mr. Duksza:** Are you suggesting—

**Mr. Sagoo:** No, I am not recommending anything. Please bear in mind that you have got options in front of you. I am merely commenting that this is the working of the board; two panels sitting on the same hearing within a matter of three or four months might come up with two different answers for one simple reason—that one panel wrote off three years, the other wrote off just one year. This is the full description.

**Mr. Chairman:** Can I just interject for a second? We did touch on this briefly this morning; on page 16 of the green paper, this is covered, I think. In the original legislation the full criteria are set out; number four was whether or not the increase in rents set by the landlord is necessary in order to prevent the landlord from sustaining a financial loss in the operation of the building.

**Mr. Sagoo:** Those are only two considerations—the financial loss or the created operating costs and capital expenses, but not the cost of the building itself.

One other comment which might be of use: we have no powers to enforce this legislation, not even our orders. I think the committee must bear this in mind. In other words, this legislation lacks teeth. We have under the legislation, section 17, various penalties for contravention of the Act itself; refusing to furnish information, or knowingly furnishing false information, collecting more than the maximum rent, and so on; and the fine is between \$2,000 and \$25,000. Since its inception, however, we have come across cases of illegal rents being charged and false information being submitted. But we have no power to enforce the Act.

**Mr. Duksza:** Another thing which struck me is that it's actually difficult to establish even the parameters of a financial loss. Not only is it difficult afterwards to say how you spent money across the years but it's very difficult even to establish the basic parameter because you have no means of comparing it.

**Mr. Sagoo:** I think you are labouring under an assumption that every hearing that comes off has a financial loss; that is not the case. In other cases, the financial loss is very easy to work out. The difficult part is when, as in the example given by the hon. member, you might have one big corporation. I have had cases where I had to sort out a total of 15 mortgages. You are paying off one and creating another; going in and out all the time.

**Mr. Duksza:** You would probably have no way of judging the veracity of the financial loss trend.

**Mr. Makarchuk:** Both of you have a legal financial loss for tax purposes. Losing money all the way to the bank, that's the problem.

**Mr. Charlton:** It was mentioned earlier that during the course of hearings you establish a sense of what is reasonable and what is unreasonable. Does this also apply to the financial loss situation? When you are considering somebody who comes forward with a financial loss, do you take a look at whether that financial loss is a result of mismanagement? In other words, you may have noticed that somebody else in similar circumstances is doing just fine and that in fact the financial loss here is a result of mismanagement of the property. How would you consider that?

**Mr. Sagoo:** Oh yes, I can give you an example of a case that was done a few months ago. It concerned the acquisition of a new property. The landlord had money and also he borrowed from the bank; but



to satisfy his ego and his whims he built a monument. It was really a property for moderate income people, and in the re-negotiations we found that the financial loss came to about 60 per cent. The question we asked ourselves was: "How much benefit did the tenants actually derive from that money spent?" He put on mansard roofs and a whole lot of landscaping and what-have-you. They were still apartments with the same four walls, although the heating was improved. We chopped it down to size and the financial loss came to less than half. So it isn't that we applied it willy-nilly, you see.

**Mr. Duksza:** What did you allow?

**Mr. Sagoo:** It came to about a 29 per cent increase instead of the 60 per cent increase; this is what happened in that particular case. When we made our decision we asked ourselves what was the benefit derived by the tenants from the improvement of the heating, the improvement of the plumbing system and the rest of it. The rest of it was really cosmetic. I must explain to you, the process of accounting is a very scientific one. It is only when we get into that narrow area of discretionary powers and then, of course, it's anybody's guess.

**Mr. Batchelor:** Some of the questions that this gentleman is asking are all very relevant and I think these are the types of things you should be directing to the attention of your consultants so that they could maybe pursue the matter further by discussing it with our board or with Mr. Robbins in his program, to find out what should be done in the way of financial loss. If you decide to continue with some form of control for a certain period of time, what should be done with respect to these matters and how much further should they be gone into and clarified, so there is a procedure to be followed that is definite, that goes into certain situations.

We've gone into the search to find out who the shareholders are, to see who is related to whom; we've gone into all aspects of financing as much as we possibly can, and I have been informed that sometimes on legal advice we have gone as far as we can go. In fact, I sat on a hearing where we went into an investigation of shareholders and there was strong exception taken by the landlord to the fact that we were demanding that information and also to the fact that the tenants want to see it. So there is a problem in dealing with a hearing of that nature but, nevertheless, we proceeded until we got as much information as we could possibly get through searches and other methods.

[3:45]

**Mr. Warner:** You've mentioned you have done some searches to discover the relationship which exists between various companies. Could you share with this committee the information about Toronto Apartment Building Company Limited. In my experience, they are a very vicious outfit. I have had dealings with them in Scarborough. The problem was that we could never seem to trace it back as to who was holding who to what. Also—and perhaps a deeper question—I don't know how far back you went; I don't know how deeply you dug. Could you share with this committee any experience in which there was a connection between those building and, somewhere back down the line, organized crime in any sense that that exists?

**Mr. Batchelor:** Are you asking me that question?

**Mr. Warner:** Yes, the work that you have done.

**Mr. Batchelor:** Well, I could in no way say that any investigation of any case that I personally have been involved in, indicated any connection with organized crime.

**Mr. Chairman:** If you know something, Mr. Warner, and you don't get your tail over to the Attorney General's office right away I think you are quite remiss. But, I am not sure this is the place to pursue this.

**Mr. Warner:** I don't know how thoroughly the examination is done as to the connections through holding companies. But, it is very important.

**Mr. Chairman:** I think you should pursue it but I am not sure this is the place.

**Mr. Warner:** The first matter of investigation that has perplexed me is in terms of Toronto Apartment Building Company Limited. It's of serious concern to the people in Scarborough. You will note by the figures that Scarborough has a very high figure of harrowing financial difficulties and so on.

Slightly earlier you dealt with the consultant, management, fee, lawyer, accountant situation. In terms of the rent review process, noting that the fees for lawyers and accountants can be part of the rent review settlement, the same opportunity is not offered to the tenant. The tenant takes a half day off work to appear at the hearing in the local area, loses a half-day's pay and there is no way under the legislation to recompense him. I see that as an inadequacy built into the legislation. Do you have any recommendations as how to alleviate that inequity for the tenant?

**Mr. Batchelor:** Well, you have raised a question which I think your committee should



address itself to. I mean it is something that each person here is well aware of, having sat on hearings. So I think it's something that your committee should look into, Mr. Chairman. I don't think it is something I should recommend. You have established in your own mind the inequity and that is obvious to any board member who has participated in a hearing. So I can't recommend to you that if you decide to do so and so that you correct this situation because it is very obvious that the inequity exists and the method and manner as to how you intend to correct that is up to your committee.

**Miss Hogan:** We had a discussion about that and one of the points raised was the applicability of section 19, and what could be done with that. There might be a basis there for providing assistance to tenants. We had a discussion on that.

**Mr. Warner:** Perhaps I am missing something, Mr. Chairman. I am operating under the assumption that from the inception of the program to date, senior officials and rent review officers around the province who had been dealing with legislation have made suggestions on occasion to the person they report to. I think they have discussed various aspects of the rent review program and they have made suggestions as to where they see there are problems and what kinds of things should be repaired. That is why I was assuming that that had taken place over the couple of years the problem has been in existence. Therefore, I thought that perhaps since this was a fairly obvious inequity, which you have confirmed, you had at some point made a recommendation or made a suggestion to some other person in the ministry, as to how the inequity could be dealt with. Am I wrong? Has that never taken place and has there never been a discussion of this?

**Mr. Batchelor:** I can't recall any suggestion being made to anyone from the board level that something be done about this inequity. There had been suggestions made for amendments to the legislation, and one of the most important changes made was to section 13(7), on the recommendation of the former chairman of our board, and that was to give the tenant or the landlord the opportunity to come back to the chairman of the board within a 30-day period and say, "Look, your board has made a serious error." Prior to that, once the decision was made the only recourse that individual had was to go for judicial review, so that was a very important section that was put in to protect not only the tenants but the landlords as well if a member of our board made a serious decision.

I think when I talked earlier about this I didn't say "discretionary." As far as the decision was concerned it would be in the area of whether it was a legal error or serious error in that light. The matters that are heard by judicial review are matters of law, not discretion. The board members are in a similar position to a quasi-judicial body, so Miss Hogan and I or Mr. Sagoo and I could meet at different times and come up with a different discretionary decision based on the facts that we had before us.

**Mr. Warner:** I am a bit concerned about the process, and maybe I am missing or not understanding something. It seems to me if a program is in effect for a length of time, the people involved in the program will make constructive criticisms of the program and that is going to be recorded somewhere. The criticisms may be ignored or acted upon, that is at the discretion of the government obviously, but I would assume those criticisms of the flaws in the program had been made and are on paper somewhere. If not, the government is extremely negligent in running the program. After 2½ years there is not a comprehensive critique of the program itself, of the flaws in it? I can't believe that.

If it exists I think we should see it. I am not about to go through the legislation and fine-tooth comb it in terms of someone else's experience. I think we should have whatever documents are available. If none are available—and that's the statement of the minister, that no such criticism has been made, no such critique has been made by the government, it doesn't exist—then obviously one of the points we made in our committee report is that the government has been extremely negligent in discharging its duty to the people of the province during the operation of the rent review program. I think it has to be one or the other and I don't see that there is any middle ground in that.

I am wondering if the chairman could, in fact, request of the minister that whatever documents pertaining to a critique of the existing legislation and existing program, made by people who are operating the program, that critique on how to fix up whatever inequities exist, be forwarded to the committee, and conversely, if no such critique exists, to indicate so. Would that be possible? Does the chairman see that as a reasonable thing to ask for?

**Mr. Chairman:** I do. The only thing is, we did get the 1977 report to the minister signed jointly by Mr. Robbins and Mr.

Batchelor, and I don't know if that would meet your definition of a critique. I have not read it. I just got it, as you did, this morning. I understand, and I think you raised the point, that there was a similar report made to the minister following the full year 1976. Again, I don't know if that would be a critique. At least it is a review of the program to date in each of those two years, but I think we will pursue it and find out if there are other observations within the ministry.

**Mr. Warner:** I think that is important.

**Mr. Makarchuk:** If rent controls were removed tomorrow what would happen?

**Mr. Batchelor:** I decline to comment on that because, after all, this gets into an area where—

**Mr. Makarchuk:** You have an opinion, I presume.

**Mr. Batchelor:** Oh yes, I have an opinion.

**Mr. Makarchuk:** Well, let's hear it.

**Mr. Epp:** One is, you wouldn't be chairman any more.

**Mr. Batchelor:** I do not feel, Mr. Chairman, that this, as far as I am concerned, is a proper question to address to me, administering the board under the existing legislation, as to what I may think if rent control comes off. That is a speculative question and while I quite admit to you I have an opinion, I don't think I should express it publicly at this committee.

**Mr. Chairman:** A similar question was asked of Mr. Robbins this morning — you missed a hell of a morning—and he, for similar reasons, declined.

**Mr. Makarchuk:** Miss Hogan also pleads the fifth amendment or something?

**Miss Hogan:** I'll make it very clear it is a personal opinion. I really think this is not an appropriate kind of question to ask, because I think it's entirely possible it could be misconstrued, perhaps in a press report, as to what has been said in the circumstances.

**Mrs. Scrivener:** Mr. Chairman, I really think this is inappropriate.

**Mr. Warner:** Are you challenging the privilege of a member to ask questions?

**Mrs. Scrivener:** No.

**Mr. Makarchuk:** You ask your question and I'll ask mine.

**Mr. Chairman:** I think Mrs. Scrivener's observation is valid and I know it is her concern, as it is mine, to prevent Miss Hogan from saying something which she may not be so pleased with June 2 after we have made

our report. This morning we did defer to Mr. Robbins if he opted to answer—

**Mr. Epp:** I think these are very intelligent people and I think they can answer very intelligently and give their personal opinion without jeopardizing the government.

**Mr. Makarchuk:** The government is in a precarious position but I don't think it will fall because of their answers. If it does fall it will be for other reasons.

**Mrs. Scrivener:** You are just trying to create tomorrow's headlines.

**Mr. Epp:** There are no press people here. They have all left.

**Mr. Makarchuk:** They are at the circus next door, watching the fall of the government in there. Can we have your answer? We understand it is a personal opinion.

**Miss Hogan:** It is a personal opinion.

**Mr. Makarchuk:** I think all members are aware of that.

**Miss Hogan:** It is not an attempt to get headlines. I am sure it wouldn't get headlines anyway. I am personally in favour of rent control and I have been for a long time. I often worked for tenants before I became a member of the board. I think there are bugs in the system for both landlords and tenants that have got to be worked out, but I think it is a scheme that, given proper thought and a lot of thought, can be made to work and to work well. I would be concerned about what would happen if controls were removed immediately. I think there should be controls.

**Mr. Makarchuk:** You say you'd be concerned if controls were removed; do you see an escalation in rents, is that what your concern would be?

**Miss Hogan:** Yes. One of the reasons, as far as I saw it, that rent control was put on was because of the problem with the supply of housing. I don't entirely agree with what Mr. Robbins said this morning, that it was merely as a result of the AIB. I think that when we get into a situation where there is a shortage of housing supply, certainly rent control is no solution. I don't advocate rent control as any great solution to that. It is a short-term measure until an adequate supply of housing can be provided.

[4:00]

I don't think we have reached a position where the supply of housing is much different from what it was before, and if it was valid originally—and I personally feel it was—to impose rent control, given the vacancy situation and the lack of housing, then I think the same reasons hold now. I think the



scheme demands a lot more thought than perhaps it may have had originally.

**Mr. Makarchuk:** The assumption is that if rent controls were lifted, then apartments will be built and there will be an adequate amount of housing. The fallacy in that argument is that they would be built at today's costs, and new apartments right now are not under rent controls; and if they were to be built, certainly the rent to be charged will be an economic rent which would take care of the costs plus the profit and everything else. The landlord is in the position to do that now.

**Miss Hogan:** Mr. Robbins was addressing himself to that this morning. He and some of his staff figured out that one of the reasons people don't want to build is their concern that new construction will at some point come under rent review despite the fact it is not now. Well, who counted out the fact that for years prior to rent review coming in it was something that no one had ever thought about before? There is always a possibility of somebody changing the rules of the game halfway through. That's the risk one always takes in any area. So, to say that there is a concern that new construction could come under rent review—well, four or five years ago there was also a concern that rent control could be imposed. So I don't think that argument is very strong.

**Mr. Epp:** Mr. Chairman, I refer to page 16 and the four criteria that were established; No. 3—the increases in operating costs and capital expenses: the landlord has either experienced or reasonably anticipates he'll experience; and No. 4—whether or not the increase in rents sought by the landlord is necessary in order to prevent the landlord from sustaining a financial loss in the operation of the building. How do either of these fare? Is one significantly more employed than the other? How often do either of these come up?

**Miss Hogan:** The increases in operating costs and capital expenditures are always a consideration. That is what normally determines the amount of the increase, so that is a consideration at every hearing. But financial loss does not come up at every hearing.

**Mr. Epp:** One out of three, Miss Hogan?

**Mr. Batchelor:** Maybe one out of five.

**Mr. Sagoo:** It happens when there is a new acquisition. You can be certain that at the end of the five-year term, the new financing comes up.

**Mr. Epp:** Mr. Sagoo, you mentioned earlier the discretionary and non-discretionary points.

You mentioned this is one of the things we should speak to our consultants about and try to wrestle with this problem. Obviously you thought about it and I hope it is not unfair to ask what kinds of suggestions you would make in this area.

**Mr. Sagoo:** I am not the only one who experiences that; this has also been the experience of the other board members. We have here a judge's book and I'll just read a paragraph so that you understand the application of—

**Mr. Epp:** What book is that?

**Mr. Sagoo:** This is a judge's book—the complete record of the proceedings as well as the decision and how we arrive at that. Every member has this judge's book. I have an example here for you, as a matter of fact, and I am glad you asked me that question.

When it comes to the non-discretionary areas—what you call utilities and taxes—it says the super's salary is an increase of 10 per cent, super's apartment six per cent—that is the guideline you see—heating 20 per cent, lighting and water 10 per cent, municipal taxes 10.5 per cent. We have got these taxes for each and every municipality—and not only for Metro, but throughout the province—and then there is the management administrative overhead of five per cent. These are the non-discretionary areas.

Now we come to discretionary areas. There were three mortgages in year two which, in the projected year, came down to two mortgages. In new refinancing; there was an increase in the rate of interest. The mortgage payment increased from \$121,872 to \$127,483, so we allowed the mortgage and it was above board; mind you, the rest of it was at arm's length. The board's calculations found a financial loss of \$35,897 in the operation of the building in year two. This was abnormally high, and the board in its discretion spread it over a period of three years.

**Mr. Epp:** What is the maximum time it can be spread over?

**Mr. Sagoo:** A new developer can never make both ends meet for the first three years. When the property comes on the market it takes the first year to fill his apartments and then over the two years he gets to a break-even point and then he makes a profit. So we assume that in new mortgage financing and in new acquisitions, the same treatment should be given to him. Mind you, the board again has power to spread it over five years, if it so desires. Therefore two boards sitting at two different hearings on the same property over a period of four months will come up with two different answers depending upon



how they exercise this discretionary power. In this particular case it so happened that by writing it off the board upheld the rent review officer's order. Also, the board has no authority to order improvements. The Landlord and Tenant Act comes up every now and then in our hearings. There are cases where the tenants will come along and say, "Well, look I have no quarrel with the rent increase given by the officer but I want the landlord to fix this up." We have no powers to enforce the landlord to fix anything.

**Mr. Epp:** I guess that would reflect their human qualities.

**Mr. Sagoo:** This is a human element. That is quite right; that would be so. But, it isn't done willy-nilly. We do open our minds to the problems and we weigh the situation as to what the landlord will be able to sustain and what the tenant would be able to afford.

**Mr. Epp:** Thank you very much, Mr. Sagoo. I have one question for the chairman of the board, which is more of a technical nature. I am wondering about those yellow bulletins that you showed earlier. I don't just want the yellow ones, in case you have changed the colours of them, but how many bulletins of that nature would you have put out since the inception of the board?

**Mr. Batchelor:** I'd say approximately 40. They come in as a result of our policy meetings which Miss Hogan and the vice-chairman attend; I am present, my staff is present, legal counsel is present, our chartered accountant is present and Gerry Gross from the program sits in on all our policy decisions. Although he may comment, he does not influence our policy decisions. Likewise, when the program has a policy meeting we sit in.

**Mr. Epp:** Earlier, the chairman said he would obtain information from the ministry with respect to criticisms of the program. I am sure he wouldn't mind sharing with the committee members the copy of all the bulletins and any other interpretative material that might be available.

**Mr. Batchelor:** These bulletins are to guide the board members. In fact, we have another publication called "Update" and we highlight things for the board members that they should be directing themselves to and things that they should be watching. I know there are similar things at the program level; Mr. Robbins and his supervisory staff are constantly going over rent review decisions to see that they are rendering them within the guidelines and within the legislation, and we are also monitoring our decisions in the same way.

**Mr. Epp:** So any information that is available to the board, to the staff and the officers could perhaps be made available to us?

**Mr. Batchelor:** We would be pleased to do that.

**Mr. Epp:** Not that I am looking forward to reading everything.

**Mr. Batchelor:** No, but it does clarify the position. When you want to read management administrative overhead, and reference cost, revenue statement, item 7(h), you can do so, and understand what we have told our board members they should address themselves to when they deal with that particular item. The others are of a like nature, and are strictly information bulletins. We are quite pleased to provide you with copies, Mr. Chairman, if you wish.

**Mr. Epp:** That's all the questions I have. I do want to express my appreciation and that of my party to you and your colleagues for coming out to answer questions, Mr. Batchelor. I am sure you would be available at a future date if the need arises.

**Mr. Batchelor:** Yes, I would be, Mr. Chairman. There is one other thing just before I leave that I would like to address to your attention, and that is the paperwork involved at the present time. Should you continue with any kind of control program, I would suggest you address yourself to this question of paperwork and the ability to eliminate it where necessary, the ability to maybe not impose unnecessary paperwork upon either tenant or landlord. I think the paperwork should be looked at and gone into, and I would be pleased at any time to sit down with your committee or your consultants and tell them where I think the paperwork could be streamlined. I don't want to take the time of your committee now, but I would be glad to do that, Mr. Chairman.

**Mr. Chairman:** Thank you very much. Mr. Charlton has one last question.

**Mr. Charlton:** I will be very brief. We spent quite a bit of time earlier in the afternoon talking about the accessibility of the program and the board, comparing that accessibility between landlords and tenants and accessibility to a professional type of presentation and consultation in the process. Miss Hogan mentioned something about small landlords that twiggled on me. In your experience, has the process been more often and better utilized by large landlords than small landlords? Is expertise and presentation and access to expertise that much better than with small landlords?

**Miss Hogan:** Yes, generally, I would say large landlords come more often with either a lawyer and an accountant or one of them. Quite often, though, a small landlord will come with an accountant or a lawyer. I suppose one of the problems is how you'd define a small landlord. If it is somebody who lives in a duplex or has a triplex or a fourplex, or something like that, and that is the extent of his holdings, then he may well not come with anyone. But often if you get into situations that are any larger than that, it's fairly common for them to come with someone. Even the smaller ones will come with a lawyer.

**Mr. Charlton:** Do you have any idea—for example, as a percentage of the total number of appeals that you get—how many would be landlords with either large properties or large numbers of small properties as opposed to the person with the sixplex coming in? How many of those small landlords, with one holding or something, are actually coming through the process; or are they just in fact taking the floor or the ceiling, whichever way?

**Miss Hogan:** I will just say one thing, and then maybe Mr. Batchelor had better answer that. Certainly in terms of the hearings that I have done, I have seen many many more large landlords than small landlords. I have seen small landlords but generally the hearings I have done have dealt with high-rises.

**Mr. Batchelor:** That's generally true. The larger landlords are the ones who appear before our board. At least it has been my own personal experience. I can't speak for all board members, but it has been my own personal experience that when I have sat on

the hearings it's usually been large landlords. However, I should point out something to you that has happened, something that's unique in the development of this rent control program, and that is the increased number of appeals being made by tenants. In the beginning it was mainly landlords. To give you an example, last week in Metro Toronto, there were 38 landlord appeals and 47 tenant. At one time it would be 85 landlords and five tenants. There would be that extreme difference. I can't give you the answer but it appears that the tenants are becoming more familiar with the law and legislation and their rights.

**Mr. Epp:** If there were 15 tenants, for example, would all those tenants be in the same building as the landlord?

**Mr. Batchelor:** Oh yes, it is possible.

**Mr. Makarchuk:** I think, Mr. Chairman, we are ready to wind up. The matter Mr. Batchelor raised about paperwork should be brought to the attention of the committee and the consultants. I think it is very important that there should be some meetings set between the consultants and Mr. Batchelor on that matter, and I certainly would like to see both of them back in the committee sometime later on. I think we should make it clear we would want to have Mr. Batchelor and his staff back on some other questions we'd like to raise. There is an agreement on that, I presume, within the committee.

**Mr. Batchelor:** Fine.

**Mr. Chairman:** Thank you very much for your help.

The committee adjourned at 4:15 p.m.

### SPEAKERS IN THIS ISSUE

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Charlton, B. (Hamilton Mountain NDP)

Dukszta, J. (Parkdale NDP)

Epp, H. (Waterloo North L)

Makarchuk, M. (Brantford NDP)

McCaffrey, B.; Chairman (Armourdale PC)

Scrivener, M. (St. David PC)

Smith, G. E. (Simcoe East PC)

Warner, D. (Scarborough-Ellesmere NDP)

**From the Ministry of Consumer and Commercial Relations:**

Batchelor, G. T., Chairman, Residential Premises Rent Review Board

Hogan, Miss Mary, Member, Residential Premises Rent Review Board

Sagoo, Kirpal S., Member, Residential Premises Rent Review Board





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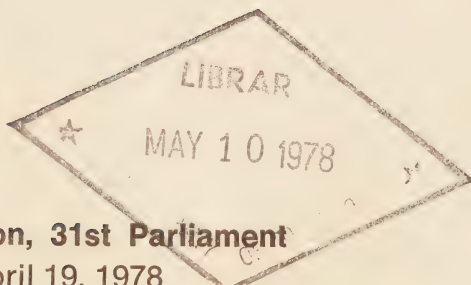
No. G-5

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



**Second Session, 31st Parliament**

Wednesday, April 19, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

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WEDNESDAY, APRIL 19, 1978

The committee met at 10:15 a.m.

### TENANT PROTECTION (continued)

**Mr. Chairman:** We have a quorum. If I could refer to the schedule of witnesses to appear today and then ask the committee for your concurrence that we may change things around a little bit, I wanted to ask if Mr. Feldman, who is our consultant, might start with us this morning and approach the microphone at the far table and introduce himself. We have Mr. Feldman's proposal in front of us—I think everyone has a copy of it now.

Let me go back to last Friday. As you know, Mr. Feldman and I met for the first time for breakfast Friday morning and discussed a number of things. His first question obviously dealt with what is expected of the consultant of this committee, and I relayed our concerns that he would help with the writing of the report, and help us monitor that we are hearing from the groups affected in reasonable balance.

I discussed with him, too, our concerns about being available in different parts of the province—something we might, by the way, get back to this afternoon. Following that, it was suggested that Mr. Feldman send the committee a letter outlining his proposal and his fee schedule. With that background, perhaps Mr. Feldman could approach the microphone now, and see if there are any questions.

The letter was sent to us as requested by me so we could look at it this morning and ask any questions that seem relevant. Remember that the time constraints that concern each of us affected Mr. Feldman to the extent that until Friday morning of last week, he didn't know exactly what his own timetable would look like, how much time he would be able to give to us. He spent considerable time over the weekend reading our transcripts, the green paper, and summaries of it, and other relevant material that we had had before us last week. So Monday morning this proposal was sent to my office. I think some of you, at least, have had a chance to look it over. I think it would be

appropriate now to ask any questions you have of Mr. Feldman.

**Mr. Breithaupt:** I might ask Mr. Feldman, looking at the four persons who are set out here, just what his expectation of their time involvement might be. I don't expect all four would be involved every hour of the week, or necessarily even every hour of the Wednesday hearings. I was wondering if you could give us a general idea of what sort of input the others might be making, and how he sees their involvement.

**Mr. Feldman:** Certainly, Mr. Chairman. Basically, the problem is as the chairman has stated. As you appreciate more than I, the time frame is extremely short—roughly six weeks—of which seven days are occupied by formal meetings, which means the opportunity to do a great deal of background work is reduced by that number of days. The expectation was this: Mr. Sears has had considerable experience in this general area, and I propose to use him more or less as a consultant to the consultant; his time would be used relatively infrequently, but I thought the sort of advice and experience he could bring to bear, particularly towards the end when the report was being prepared in a draft form, would be invaluable.

The other two individuals, Mr. McInnis and Mrs. Graham, in essence would be used as backup to me. If I could not attend all meetings of the committee one or other of those two individuals would attend and would assist in trying to draw together some of the materials. You are quite right, not everyone will be used every hour of every day; nor indeed will I. I must say that my hope is to try to set forth on paper, by the end of this week, in some more detail, what it is I think you want from a consultant, and to have some discussion with your chairman about that.

At the present time, it still is, in my mind at least, a little hazy. I appreciate that you expect and insist that the consultant be involved in the drafting of the final report. But I don't know to what extent you want the consultant to be engaged in actually doing some research, other than monitoring what has already been done.



I am not suggesting you want duplication of the mounds of work that obviously exist in the three government ministries that are most affected. It is going to take some time to get at that material. Second, it has to be read and some assessment has to be made on it. I don't know to what extent or how far you want somebody to go on that. Certainly, that's more than one person can do, particularly on short term, as most of you can appreciate. I do have other ongoing responsibilities in other areas and the time is very short.

**Mr. Samis:** Mr. Feldman, can you give us any idea of how much of the six or seven days of sitting you would expect to attend yourself?

**Mr. Feldman:** I would like to attend all if I can, because I think it's very important that I have the same perception of the mood and what's been coming forward as you do. Whether or not that's going to be possible, I don't know. I would expect to be in attendance at least 60 per cent of the time during those hearings. If I'm not, somebody else will be. I do appreciate that there is a written transcript and that removes some difficulties. It's not quite the same thing as being present always but it's the next best.

**Mr. Samis:** Can you outline why you regard it as essential that three associates be engaged? Some people with more experience could correct me, but I suspect that's beyond the usual norm for committees here. I'd be interested in knowing why you think we should engage three associates.

**Mr. Feldman:** I am not suggesting you should engage three associates full-time.

**Mr. Samis:** No, I appreciate that.

**Mr. Feldman:** I think each associate has certain skills that, to me at least, given the time that is going to be involved, would make me considerably more comfortable in providing the kind of advice and service you want. To some extent, that is up in the air because I am still not certain what it is precisely you want or expect, beyond writing the final report.

**Mr. Breithaupt:** Perhaps I could advise that in the select committee on company law the Woods Gordon consultants have four persons who are there from time to time, but not all of them all of the time. In reviewing the budget for the select committee on Hydro, I think their expectation is four or five persons. At those prices, I presume they will be there all the time since they look for about \$200,000, apparently, for those consultants.

**Mr. Samis:** Could I ask just one final question? I realize we haven't defined your role very precisely and that's a problem for you

and me. I fully appreciate that. How seriously would you assess it would affect your effectiveness if you were to be confined to one associate, rather than three?

**Mr. Feldman:** I would think, given the time horizon, it would be extremely difficult with just one other—with two others perhaps.

**Mr. Makarchuk:** I am not arguing about the number of associates you have, but could you outline some of their expertise? What is the field of expertise of the various associates? I can see where you could draw on some people for certain information at different times.

**Mr. Feldman:** Certainly. Mr. Sears is an architect, a senior partner in his own firm, which engages almost exclusively in a practice related to housing. Also, a subsidiary of that firm has a very active research function in housing.

**Mr. Makarchuk:** Pardon me for interrupting. Is this single family or all types?

**Mr. Feldman:** All types, but mostly multiple family housing.

**Mr. McInnis** is a planner, a member of the Canadian Institute of Planners and is head of the research arm in that firm. He is very expert in housing work and we work together very often. In fact, they have done a great deal of work in the recent past for other commissions involved in the general area. Mrs. Graham is a political scientist/economist and has some very considerable skills in writing and drawing those kinds of materials together. That would be the use to which I intend to put her.

**Mrs. Campbell:** Is there any one of these consultants who has any expertise in the field of social housing or as an architect? For instance, has Mr. Sears had any experience such as Professor Murray's experience?

**Mr. Feldman:** Yes, he has.

**Mrs. Campbell:** He has. Could you elaborate a little bit on that for me?

**Mr. Feldman:** The firm generally has done a considerable amount of work, particularly in the area of housing for the elderly and in background studies of housing projects of that kind and need.

**Mrs. Campbell:** I think housing for the elderly seems to be a very attractive thing. Everybody's into it. We seem to get more of it than anything else. I am more concerned with things such as family housing, affordability, the different types available today on the market, limited dividend—that kind of thing. Do we have expertise there?

**Mr. Feldman:** Yes. At the present time, Mr. Sears is particularly involved in design and

research work in the St. Lawrence project, in some of the projects of the city of Toronto limited dividend and city of Toronto housing corporation projects. The firm did do background work for both the Robarts commission and for the advisory task force on housing.

**Mrs. Campbell:** Thank you.

**Mr. Chairman:** Are there any other questions? I think in some ways Mr. Feldman's problem is similar to our problem—the time constraints, the immensity of the task. Each of the committees are difficult and different and sometimes it's stretching a point to make comparisons. But I think everyone agrees we need professional help, fast. We are all conscious of public money, the budget, so we are trying to find a balance between good use of spending money to save our time because all of us have been preoccupied with not duplicating work that's done. One of Mr. Feldman's first tasks is to steer us away from doing that.

**Mr. deKlerk,** if we may ask you to come up to the microphone now please and introduce yourself, sir.

**Mr. deKlerk:** Yes. My name is Jack deKlerk and I am the chairperson of the Federation of Metro Tenants Associations.

**Mr. Chairman:** Your brief, I think, has been made available to all of the members of the committee.

**Mr. deKlerk:** I think it was just made available so I don't imagine people have had a chance to go through it unless they weren't paying attention earlier or are very effective speedreaders.

The Federation of Metro Tenants Associations is an umbrella group of tenants associations throughout Metropolitan Toronto. We have presently approximately 100 groups affiliated with us and with which we work very closely. We don't keep a daily record of the exact number of tenants involved in that sort of thing, but as I say, there are about 100 groups and they vary in size from about 10 to sometimes 500 members. So there is really quite a broad range. They come from every corner of Metro and deal with all kinds of housing situations, except for Ontario Housing tenants. They have their own tenants associations.

[10:30]

So, Mr. Chairman, what I want to say is that the federation is a group that represents tenants throughout Metropolitan Toronto obviously the area of Ontario that is most affected by the rent review. This is not to say that other areas aren't affected as well,

but I think certainly the housing situation in Metropolitan Toronto is something we all need to keep a close watch over.

The Federation of Metro Tenants Associations has consistently taken the position that decent and affordable housing is a fundamental human right. Thus, the responsibility for its provision is a social one. The government must guarantee each and everyone of us this kind of housing, and devise the programs to effect such a guarantee. We frankly don't care who builds it, but we do care how it is built, on what basis it is operated, and in whose or what interest it is run.

Unfortunately, the corollary to this position is currently the reality. Decent affordable housing is not guaranteed to the residents of Ontario. Until such time as it is the case, certain rights and protections for tenants must exist and be stringently enforced. At the same time, these rights and protections are the first steps to the guarantee of decent affordable housing as a right.

In this context, the Ontario Legislature passed Bills 20 and 26 in December 1975, enacting the Residential Premises Rent Review Act and amendments to the Landlord and Tenant Act. The right of tenants to security of tenure was finally acknowledged. There is still much debate about the nature of the rent review Act, its purpose, its scope and its permanency. However, with respect to the Landlord and Tenant Act, particularly the security of tenure sections, it was the explicit intent of the Legislature to break with the almost feudal type of landlord-tenant relations in force at the time. For the first time in Ontario, rights were provided for the occupant of rented premises. These security of tenure rights have formed the basis on which tenants are now settling into their homes and developing communities. These rights must not only be preserved in law, they must be seen for what they are in fact: The cornerstone on which is built the right to decent and affordable housing.

In this light, some initial comments must be directed to the premises on which the policy options for tenant protection were developed in the green paper. The criteria stated on page 33 of the paper which were used to evaluate overall approaches to landlord and tenant relations were: Landlords' operations being financially viable; the affordability of rental housing; adequate quantity and quality of rental housing; resolution of landlord and tenant disputes; and, finally, government financial restraint.



The main premises on which these criteria are based is that the private sector has and will be the major supplier of housing and in order to maintain that situation, legislation must ensure a high enough level of profit to attract private investment in housing.

From our point of view, a major and glaring omission in these criteria is security of tenure. Its omission suggests that it is viewed as a liability to profit and therefore its significance must be minimized when deciding housing policy options. This is quite a contradiction in the light of the title of the green paper, *Policy Options for Continuing Tenant Protection*.

Many landlords run apartments with total disrespect for tenants and their interests, including rents that are charged, the level and quality of maintenance, and the often endless stream of harassment which tenants have to endure. These daily facts of life are the byproducts of landlords whose sole motive is to maximize their profit.

It is in response to facts such as these that the FMTA favours more government involvement in housing production, ownership and management. We believe that socialized—that is non-profit—housing can work and will work in the long term by ensuring an adequate amount of good quality housing at affordable prices.

Finally, we would like to comment on the procedure which has been chosen by this committee to become informed by tenants of their opinions on the green paper and on their suggestions for government policy. The hearing schedule, Mr. Chairman, needs to be extended and must include more evening hearings. The committee should travel to all major urban areas in the province to hold hearings. In this way it will at least be providing a forum to hear from the people it says it wants to protect, on that.

**Mr. Chairman:** May I just interject here? You had indicated both those points—they were concerns of yours as they were concerns of the committee—in your letter, and I thank you for that. We did address ourselves to that. Hopefully this afternoon we can finalize a couple of details regarding evening sittings and travel.

**Mr. deKlerk:** Thank you very much.

We would also like to say that, as we see it, this stage is but one in the development of the new legislation. The other is an examination of the legislation which results from this committee's recommendations. We would request and urge that a committee hear briefs on the legislation once it is developed.

We believe that this input, like the submissions that were made to the select committee of the Legislature regarding Bills 20 and 26, would be helpful and should be considered. Above all, we are concerned that whatever discussions take place, they not be under the threat of a deadline for having legislation passed. Such circumstances would only result in ambiguous and perhaps unworkable legislation. In the interests of all concerned such an eventuality should be avoided.

At this point we would like to make some comments on the green paper itself. The major premise of the first part of the paper is that the private sector will continue as the major supplier of housing and that rent review, if continued, will have a negative effect on the ability of the private sector to supply housing.

The common tie that these two points have is the degree to which controlled rents can entice and capture private investment in housing. A quote from the green paper: "Any policy must include provision for an adequate return, if continued private involvement is to be assured." The role of the government in rental housing, while not unimportant, is defined on page four of the green paper as "co-ordinating private activity, assisting those of low income to obtain suitable accommodation, providing the legal and institutional arrangements necessary for the regulation of landlord and tenant relations."

It is interesting to note that the green paper, while basing many of its concerns on the need to stimulate the further production of rental accommodation, also refers to the Ontario government's special program review which advocated the policy that housing starts in the future should be biased toward ownership rather than rental accommodation.

We would suggest that this contradiction between government policy and the goals of the green paper implies two related policy options:

1. Decreasing the scope of rent review to make rental construction more favourable to the private sector, because "if adequate financial return is not forthcoming, rental housing will not be built."

2. Increasing government incentives to private builders to produce more home ownership and fewer rental units.

In combination these will have the effect of perpetuating the rental supply problems, thereby repeating the early and mid-1970s experience of low vacancy rates and "higher-than-normal rate of average rent increases."

Clearly, from the point of view of housing supply, the contradiction must be resolved.



While we agree with the premise that the private sector will not build any type of housing, let alone rental, if an adequate return is not assured, our primary concern is with the plight of Ontario's tenants. If the provincial government is not prepared to commit itself to an extensive involvement in the provision of rental accommodation then it must commit itself to permanent rent control.

The green paper contains data on both spending levels of the provincial government per se, and the monetary value of combined government financing. As one can see, provincial involvement relates primarily to financial assistance to builders. As a review of the public accounts since 1973 shows, this assistance is concentrated in such programs as: Rent supplement, Home Ownership Made Easy, Ontario Housing Action Program, municipal land assembly, Ontario Housing Corporation, Ontario Mortgage, home buyer grant, assisted rental program, and the Ontario rental construction grant.

While some of these programs have ceased operation, references in the green paper to their effectiveness in the supply area are reported:

"Private unassisted rental production fell from 18,250 units in 1974 to 4,700 units in 1975.

"Switch from rental to condominium production increased by 19.5 per cent in 1974 to over 18,000 units with a further increase in 1975 of some 13.5 per cent.

"Assisted rental starts under various programs increased from 8,500 units in 1974 to 11,700 units in 1975.

"Despite public efforts, production levels remained below desirable levels—rental production could be as low as 30 per cent over the next decade—and the 30 per cent rental target results in a 26,000 unit a year rental production figure. The total starts for 1976 of 15,900 units fell well below this level."

Despite the marginal impact of government involvement in other areas of housing construction, it is estimated that through the assisted rental program and the Ontario rental construction grant combination alone, "potential subsidies, including tax loss provisions, may be as high as a capital value per unit of \$7,700." That's over 20 per cent of the total value.

It has already been stated that the general tendency in provincial housing programs is toward financial incentives to developers and away from direct provision of rental units. This feature is particularly noticeable in the substantial increase in condominium construction. The question one must ask is how sound is this investment of hundreds of millions of

dollars when there is no return on it? If instead the money had gone into direct building programs, the government and the public would now have an investment in publicly owned housing to show for it. The physical housing stock would then form a part of the public's equity.

This takes us back to the question of equity. It concerns a question which many tenants quite rightly ask as they see their rents increasing yearly. Many tenants have paid for one building over and over again, as it passes from one hand to another and generates new mortgages at higher and higher interest rates. Why then should their rents pay for a building in which the landlord has complete control?

Before commenting on the housing market under rent review, we would like to pose the following.

The green paper states, "it is clear that the distortions introduced into the rental market during the early 1970s have continued to date." The paper also discusses variables beyond the purview of rent review, such as interest rates, inflation, and government regulation in other areas such as investment, taxation and zoning. Given the fact that these uncontrolled variables have continued and probably will continue to exist in one way or another, either the current cost-pass-through formula will need to be altered or the provincial government will have to tailor its programs and policies more closely to the methodology of rent review in order to have any effect on removing the distortions.

If it is true that government financial incentives really do have some influence on encouraging or discouraging the production of housing, then presumably the private sector benefits from those incentives. It has to spend less of its own capital than it would were it to make other investments. If this is the case, should landlords and developers derive a second benefit from being allowed to pass on financing costs to tenants, particularly if there is no provision requiring landlords to reinvest part or all of their profit in more housing?

The green paper, in evaluating the effectiveness of the rent review program, states that "in its first year of operation at December 31, 1976, 271,614 applications had been made, of which 94 per cent were from landlords, resulting in 9,412 hearings." At that time, the maximum allowable increase before going to rent review was eight per cent. Yet since October 1977, when notices for rent increases above six per cent were required to be followed by an application for

rent review, the number of hearings declined from 9,412 to 5,145.

If landlords and developers are experiencing greater hardship due to inflated operating costs, and increased mortgage interest rates, why haven't they applied to rent review in greater rather than fewer numbers?

There has been a certain lack of integrity on the part of the authors of the green paper. While emphasis is placed on the market variables of increased costs and concern over a landlord's financial position, the actual number of applications to rent review as an indicator of the degree to which landlords are suffering is ignored. We suggest several possible reasons for the decrease in applications by landlords:

1. A six per cent increase or less is sufficient to maintain an acceptable profit margin in most—over 75 per cent—of the cases.

2. A number of landlords are not able to avail themselves of full-time legal or financial advisers able to keep on top of the legislation; then, having not been informed as to the possibilities of higher increases if costs have been increased above the maximum, they simply have not applied.

[10:45]

3. A certain number of landlords—and from our experience it is quite significant—are increasing rent illegally in the hope that the tenants won't know the difference.

4. A number of landlords refuse on principle to apply to rent review because they oppose having their books laid open to scrutiny by rent review or tenants. At least one major holder and operator of rental units falls into this category.

Of these possibilities, the first and fourth fall into the category that if things were really tough the landlords in these categories would have applied to rent review. The third possibility will continue to exist until stronger enforcement measures are made available, including the mandatory registration of all rents and the policy that rent review should enforce the Act. The second possibility may exist. Better publicity to both landlords and tenants regarding rent review would have the beneficial effect of informing more people of their rights under the legislation. We can only conclude that such significant decrease in applications is an indicator of the seriousness of the landlord's position.

On the other side, tenant-initiated applications to both rent review and the appeal board have increased from 1976 to 1977. This points to the growing number of tenants who are not prepared to accept automatic eight or six per cent rent increases and to an in-

creasing concern over what kinds of expenditures their rent actually pays for.

To conclude, while the green paper suggests that the continuation and form of rent review depend in the main on the landlords' financial position, we assert that its continuation and form depend on the tenants', if not the public's, right to have some control over the structure of rents and the expenses they should and should not pay for and when and why rents should be equitably increased. I would tie that back to the initial part of our submission which emphasized the matter of security of tenure. I think it's been acknowledged by pretty much everyone that unless there is some kind of control on the rents there is no such thing as security of tenure.

The final part of this submission is our proposal for continuing tenant protection. Part of these proposals includes specific recommendations for amendments to the Landlord and Tenant Act and the rent review Act.

As mentioned earlier, it has been the federation's policy that a housing tribunal be established to deal with landlord-tenant problems. Our proposal to you today is that this committee recommend the establishment of a residential tenancies commission which would take over jurisdiction presently under the rent review program, certain parts of county court and certain parts of the small claims court. This commission, as we describe it below, would be structured and have commissioners appointed to it in a way not unlike the present Labour Relations Board.

The residential tenancies commission should deal with every possible aspect of landlord-tenant relations, including rent review, the Landlord and Tenant Act, the enforcement of both of those Acts and housing standards. We're looking at something where we want to pull together into one jurisdiction all the various kinds of problems that might arise between landlords and tenants. I think that that is one area where there is some agreement at least between landlords and tenants, that the present diffusion of agencies and jurisdictions needs to be overcome and that we can at least have one address or organization that one can go to to try to get one's problem solved and have it done more quickly than is presently the case, particularly in the county court.

To bring this about, it would be necessary to grant exclusive jurisdiction in matters pertaining to part IV of the Landlord and Tenant Act, the Residential Premises Rent Review Act, appeals from the housing standards appeals committee or whatever municipal body exists, and prosecutions under the relevant



Acts that the provincial Legislature has jurisdiction over.

The residential tenancies commission would function on a number of levels: administration, mediation, adjudication and enforcement. First of all, on administration, to control more effectively applications, the commission should have a clerk's division. It should function similarly to the county court clerk's office. This office would require that applications be filed in the correct form, contain the necessary information, be filed on time and be properly served. It would also serve as an information bureau for the commission, making referrals where applicable.

Secondly, on mediation, all applications received by the commission for matters dealing with rent increases and default judgements, that is undisputed applications under the Landlord and Tenant Act, would be directed to the residential tenancy officers who would evaluate the application in terms of the law, the programs, policies and regulations, hear submissions from landlords and tenants and determine areas of agreement which are acceptable, within the scope of the evaluation carried out, to all the parties.

Such solutions would effectively be consent orders, enforceable and binding. Such decisions and solutions would be made in the presence of the parties on the basis of the information presented at the hearing. Partial settlements would be permissible, but all orders would be detailed, showing how the agreement was reached, including any financial calculations. The residential tenancy officers would be authorized to give default judgements, but would not deal with disputed eviction applications under the Landlord and Tenant Act.

Thirdly, the adjudication function: All matters not settled before the residential tenancy officer would be referred, not appealed, to the residential tenancies board. The board would hear matters in dispute; it would not be a hearing *de novo*, as presently exists with the rent review board, and they would be bound—

Mr. Chairman: Excuse me, what's *de novo*?

Mr. deKlerk: It means "starting anew."

Mr. Chairman: I'm sorry. As a non-lawyer, I've learned all kinds of things.

Mr. Breithaupt: It's an appeal in an entirely new jurisdiction.

Mr. deKlerk: Right. As it is right now, if you go to rent review they hear the application and receive all the information. If it's appealed then they simply ignore everything that happened before and start over. So

technically it's not really an appeal. You're just moving it from one jurisdiction to another. We're saying that once there is agreement on certain areas, there's no need to drag all that up again, because you're simply going over trodden ground.

Mr. Chairman: Thank you.

Mr. deKlerk: Okay, the decisions of the board would be final and not subject to appeal except in matters of law, jurisdiction and natural justice.

Enforcement: This division of the commission would be empowered to effect compliance with any of the commission's orders, investigate complaints, if necessary carry out prosecutions and generally police the legislation within the commission's jurisdiction.

Finally, we're recommending that there be a landlord and tenant bureau. Or let me put it this way; there would be a landlord bureau and a tenant bureau attached to this commission. They would be staffed by the commission or by other community agencies to provide information, advocacy and other assistance that parties may request or need.

We're concerned that people who come before a commission not be completely snowed under by the bureaucracy, that if they desire help they can get it there and that the people who provide that help can do so on a partisan basis. So if you're one day helping a landlord, the next day you're not trying to help the tenant against the landlord you helped yesterday. There should be a clear line. We feel there are a number of community agencies—certainly our organization—which would be quite prepared, with assistance, to staff that kind of a bureau.

Procedures of the commission: The various divisions of the residential tenancies commission would always be required to give detailed, written reasons for their decisions, including, in the case of rent review applications, the calculations resulting in the decision. The decisions would always be subject to precedent, the common law and the policies of the commission. No activity or policy of the commission could prejudice legal rights or require a waiver of judicial procedure. The commission would allow class, group or representative actions. Appeals from the commission on points of law, jurisdiction or natural justice only would be allowed, and would go to the divisional court.

The appointments: Residential tenancy officers should be competent in matters of



rent review and landlord-tenant relations and be trained in the landlord and tenant law. One of the problems we have right now with rent review officers is that they don't know anything, really, about the Landlord and Tenant Act. They're always referring tenants to someone else and saying, "That's a landlord-tenant matter. We can't discuss it here. Sorry." We want to make sure those people are able to deal with that kind of problem.

The residential tenancies board would sit with three members, composed of a landlord representative, a tenant representative and a neutral chairperson.

At this point we would like to get into some proposed amendments to the Landlord and Tenant Act. There obviously would also have to be some amendments to a number of pieces of legislation to bring about the commission as we see it. Apart from that, we would like to see some specific amendments to the Landlord and Tenant Act. We're concerned that the security of tenure provisions of the Act be maintained. We don't want to see them eroded. We don't want to see that part of the Act changed, nor are these amendments exclusive. Other people will undoubtedly be making recommendations and we would like them all to be considered seriously, at least as long as they don't erode the security that tenants have right now.

First of all, we would like to see the introduction of a standard form lease. It should be introduced and required as a minimum for all tenancies. There would be one variable allowing for weekly or monthly tenancies. We feel that this kind of amendment would do away with a lot of problems that exist right now between landlords and tenants, that is, the disputes over tenants' leases. The wording in leases is always ambiguous. It seems no one quite knows what they mean, and this always results in a lot of litigation. We feel that if there could be a standard form lease everyone would know precisely what ground he stands on. It could be worded in a very simple way so that it's understandable by people who aren't lawyers.

Notices for rent increases or termination should be required to be given in a prescribed form only. This provision would greatly reduce the confusion, the debate and the litigation that now takes place. It would result in reduced costs for everyone and more efficient running of the residential tenancies commission.

One of the biggest problems we've experienced, and I think probably landlords have experienced too, is that you end up in court and spend half your day, or maybe even

longer, arguing as to whether or not a notice is in the correct form and whether it contains everything it should contain. It's helpful at times for tenants to have that kind of defence. Unfortunately, it only happens if your landlord isn't too clever. I think that in the end it will benefit everyone if we can get a required form so that you either have it or you don't have it. If you don't have it, it's over. I think everyone would catch on fairly quickly where to get the forms. It would make the whole procedure much more effective for everyone.

With respect to the landlord's ability to gain possession of the premises, we have two recommendations. I'm not sure whether all the members of the committee are familiar with the provisions of the Landlord and Tenant Act. A landlord can regain possession of an apartment if he requires it for his own use, and in such cases he has to give the tenant 60 days' notice.

We're concerned about that provision, not because we don't think that under some circumstances a landlord should be able to move into a house or an apartment if he needs it, but because there has been a slight tendency to make a very broad interpretation of what the term landlord means, so that sometimes you've got the president of a corporation being able to move into a tiny little apartment because he's the landlord. Secondly, there is some vagueness about exactly what bona fide need is on the part of the landlord.

We're recommending that the Act be tightened up specifically to exclude any corporation or agents of a corporation. As far as we're concerned, corporations don't live in apartments. A corporate landlord should not be able to use that kind of an excuse to get a tenant out because it's obviously an excuse to get the tenant out. We're recommending that there be more responsibility on the landlord to show that he has a bona fide need for the apartment. We're suggesting the apartment would have to be his principal residence. If he has another principal residence, then he would be basically prevented from using that section.

#### [11.00]

We're also looking for some compensation to tenants who are required to move under these kinds of circumstances. We're suggesting that the landlord in this case, and also in the next case, be required to pay the costs of moving and any higher rent the tenant might have to pay, or a portion of it. Such a provision presently exists in British Columbia.

The second amendment to the landlord's ability to get possession which we are looking

at is the section which allows the landlord to gain possession of the premises if he's going to do some major renovating.

We've found recently that this is turning out to be a large loophole. If a landlord doesn't happen to like a tenant, he simply says he is going to renovate the apartment and the tenant has to be out in 120 days.

We think the landlord should be able to evict a tenant for major repairs only if the repairs are required by law. Again, there should be compensation to the tenant if the tenant is required to move under those circumstances.

Our final recommendation, with respect to amending the Landlord and Tenant Act, is that the notice for termination by a tenant be reduced to 30 days. At present it's 60 days. We feel that kind of a requirement on tenants is burdensome. It's very difficult for tenants, if they're suddenly informed that they're being transferred or have to move somewhere else, to give 60 days' notice.

We don't believe 30 days would be a particular hardship to landlords because right now, with the low vacancy rate, landlords generally have no difficulty in renting their apartments.

Landlords, on the other hand, generally don't have to give 60 days' notice. Although the Act says that a notice of termination at the end of the term shall be 60 days, landlords generally don't use that section to evict tenants. They usually use the section which allows them to give early termination to tenants, in which case they have to give, perhaps, 21 days' notice. We feel that the Act in this situation is a bit unfair.

We also have some specific recommendations for amendments to the Residential Premises Rent Review Act. The Act, as we see it right now, is ineffective in terms of limiting the amount of the rent increases that come before it. Presently, they're allowing more than 12 per cent, which is about double the guideline which is set.

Secondly, we feel there needs to be some improvement in the administration of the legislation. The first change we recommend is the establishment of a registry for rents. This registry would include all rents which are subject to the Act and a rental history dating back to January 1974. The registry would be maintained through a requirement—and this is our second recommendation—that all copies of notices of rent increase be sent, within seven days of being served on the tenant, to the residential tenancies commission.

I might point out to you that is also a provision in the BC legislation; the commis-

sion has to receive copies of all notices of rent increase.

These provisions would help tenants to determine what legally-chargeable rents are and would assist the compliance division in enforcing orders or investigating complaints. Right now, it's very difficult—and I can perhaps use an example to illustrate this particular problem—for a tenant to find out what the legally-chargeable rent is, if they are a new tenant moving into the apartment.

We have had clients come to us with this problem. They had moved into their apartment in March 1977 and were offered the apartment for \$262. The tenants felt that if that was what they had to pay they didn't really have much choice, they signed the lease for that amount. Subsequently, they came in contact with some of the other tenants—there's a tenants' association in the building—and they were rather surprised to find out that the previous rent charged for that apartment was \$113. So the tenants at that point were really out of luck, because in order to dispute a rent increase they had to do so 60 days after the notice of rent increase, according to the rent review Act. That time had obviously elapsed, because there was a period when the previous tenants were there and if there had been a notice they would have had it; in fact, the apartment was vacant for a few months, so there was no notice sent whatsoever.

So the tenant had one of two options: To simply say to the landlord, "I am not going to pay the \$260," except that the tenant didn't know exactly what the legally-chargeable rent was so they wouldn't know what to pay.

The tenant then went to the rent review board and said: "What can I do?" Rent review said: "Well, okay, you apply to rent review. We will accept your application as an application basically to determine what the legal rent is." When all was said and done, rent review turned around and approved the rent increase of \$262.

The landlord was in total violation of the law because the law says quite clearly you can't increase the rent more than six per cent without going to rent review. He increased it by over 100 per cent and he didn't make an application to rent review until the tenant required that he do so. At the end of it, the tenant was stuck with the same rent.

Now if there had been a registration of rent, the tenant would have known right from the outset what he should pay, and the landlord, if he wanted to make an application for rent review, would have been required to do so in the proper way and that kind of problem would have been overcome. At this point



the only recourse the tenant has is to go to judicial review; and anyone familiar with the process knows that it's a very expensive one and not really a viable option.

The third recommendation we are making for amendment to the rent review Act is that rent increases within a building or project would all take place on the same day and that only one hearing be held annually for a building or project, except on tenant-initiated applications. One of the biggest problems with rent review right now is its inefficiency and we believe that if there were only one hearing for a building rather than the four or five that sometimes take place now, it would cut down on the number of applications and make the whole thing more efficient.

We also feel that it would not be that difficult to develop a schedule for the landlords so that all the rents in a particular building would come up at the same time, so that a building might have an anniversary date of May or June or October. As long as that recommendation is taken in conjunction with the recommendation for a standard form lease which would be a monthly tenancy, you wouldn't have a problem with people wanting to move at various times because they would simply have to give their 30 days' notice, and people coming into the building would know when the rent increase would go into effect. These provisions, we believe, would do away with the duplication of hearings.

All information to be used by a landlord in support of an application should be filed at least two weeks prior to a hearing, and failure to do so would constitute a withdrawal of the proposed rent increase. It's very frustrating when you get notice of a hearing you plan to attend and two days before the hearing the rent review officer's still calling the landlord every three hours to say: "When is that information going to be there?" You can't have a hearing when you get the information only at the time of the hearing. I think it's really a denial of natural justice. We are saying that if a landlord knows what his increase is going to be 90 days beforehand, he should be able to have that information to the program at least two weeks before. If he can't, well then he had better do some rearranging in the office.

The rules and the procedures and the policies followed in the determination of rents should be included in the Act or in the regulations. Right now there is no requirement that the policies of the rent review program are public. There are bulletins that come out but no one really knows how

binding they are. They are not a part of the regulations, so if the rent review officer doesn't happen to like one, he doesn't have to pay attention to it. The procedures that the program follows are not generally accessible, we are suggesting they should be accessible and binding on the program so that everyone is clear as to exactly what they can and cannot do.

We are also suggesting that section 19 of the Act should be amended or a regulation made to clearly establish that the section applies to more than physically handicapped people. Section 19 of the rent review Act provides that the minister may approve technical, professional or other assistance for people coming before the rent review program. In a number of instances we have asked the minister for that kind of assistance and we have been informed that only people who are severely handicapped can qualify under that section. I think that wasn't the intent of the section. It's unfortunate that it has been interpreted that way, and there should be an amendment or a regulation made to clearly indicate what the intention of that section is.

We believe that parties to a hearing should have a right to cross-examine. Such a provision would help to establish the neutrality of the officer. One of the difficulties that the program has is establishing a certain amount of credibility. In many cases tenants, and probably in some cases landlords as well, go before a rent review officer and are completely frustrated; they think he's trying to sell them down the river and is in cahoots with the other side. Part of that comes because in many instances the rent review officer does most of the speaking.

If I, as a tenant, come to a hearing and ask a question of the landlord regarding his costs, often the rent review officer will answer that question—sometimes because he knows the answer and he has gone over the information. I think it would be important for the program to say that if someone is asking a landlord a question, let the landlord answer it; he's quite able to speak for himself. In that way, at least the officer doesn't appear to be on the side of the landlord, because the moment he begins to defend the landlord, he's no longer neutral—at least in the eyes of the people who are before him. We think that if there was a right to cross-examine, the neutrality of the officer would be established.

We have a couple of more substantial amendments we would like to propose as



opposed to the procedural ones we have just gone over.

First of all, we are recommending that financial loss, financing costs or changes in financing costs, except where they relate to major renovations or improvements, should not be allowed in the calculation of rent increases. These considerations are the greatest factor in justifying the rent increases in excess of the guidelines. Their exclusion would have the effect of discouraging the turnover in buildings, making more money available for repairs and maintenance and for new buildings.

The biggest problem tenants have right now is that they are happy in their home when someone comes along, buys their place and, bang, they are hit with a 30 per cent increase; and they have absolutely no increased value for that except a new landlord, which may or may not be better than the other one.

Many buildings increase in value on the speculation that the cost of purchasing can be used to justify very high rent increases. In fact, rent review will say to them: "Sure, you have just paid so much more; well, we will give you a rent increase to compensate for that." So people are paying more for buildings because they know they can go to rent review and get increases.

[11:15]

Financial loss is already given consideration for income tax purposes and landlords are annually increasing their investment through the repayment of principal. One of the considerations built into the rents and condoned by rent review is that the tenant should pay the cost that the landlord incurs in the repayment of his principal. This is in effect giving the landlord a gift each year in the amount of his principal repayments, so he is increasing his equity by that much every year. If you look at that in terms of his original equity, if he has, let's say, originally \$10,000 in equity in an apartment and if each year the tenant contributes \$1,000 towards the repayment of principal, that is in fact a 10 per cent return on investment.

Within the present structure of rents, there is already an adequate consideration for the landlord. We don't have to give him more consideration through financial loss. The landlord would still have a capital gain in the amount of principal paid off if the building were sold even at the same price of the previous sale.

Second, we are suggesting that costs of major repairs should not be allowed where the repairs are required by municipal work

order. We feel it's very unjust for a landlord in the first place to allow an apartment to deteriorate so that it falls below the standards set by the municipality; to continue in that period to charge increased rents as if the place were as good as it always was; and then, when the tenants finally get fed up with it and say to the municipality, "Send your inspector here and put a work order on the place," to have to pay a further rent increase because the landlord finally is bringing it back up to what it should have been long before. We think that that's very unfair to tenants. We are suggesting that if the work is being done as a result of a work order, the costs of that work should not be passed on to the tenant. We feel that would not discourage preventative maintenance; in fact, it should encourage it.

Third, we feel that interest payments on improvements should be allowed only on the unpaid portion of amounts borrowed to carry out the repairs. If a landlord, let's say, builds a swimming pool where there wasn't a swimming pool before, that would be considered a capital improvement and the rent review program would allow interest on that payment. If he paid \$10,000, to pick a round number, for that swimming pool and borrowed money at 10 per cent, then they would allow him \$1,000 annually as interest. It seems to us that what would happen over a number of years is that the principal amount borrowed would be paid off; if it was amortized over 10 years, they would pay off approximately \$1,000 each year. So the interest allowed should be decreased annually. Right now, it stays the same. We are suggesting that it should reflect only the outstanding amounts borrowed, not the total amount.

Fourth, adjustments to rent should be made when the amortization periods for major repairs and improvements expire. I hope you people are not having too much difficulty following this. If you have gone to rent review hearings, you can appreciate some of the detail of this. Right now, if a landlord buys a tenant a new fridge and pays, let's say, \$300 for the fridge, and the value of that fridge is capitalized over three years, then they would allow an increase in rent of \$100 per year—that might result in three or four per cent for that particular expense. After the three years are over, there is no reconsideration of that \$100; it has all been paid off, but that amount continues to be incorporated into the rent.

Although it has all been paid for, the tenant continues to pay again and again and again, and subsequent increases are put on

top of that; by the time it's done, the tenant has paid for something five or six times over again, and rent increases are compounded on top of that. Again, we feel, simply in terms of accounting principles, that's unreasonable and it certainly is unfair to the tenants who have to put up with that sort of stuff.

Fifth, to make the program more efficient, we are suggesting that projected increased costs, with the exception of utilities and taxes, be limited to the guideline set by the program. For example, right now a landlord can claim five per cent of his total revenue for management and administrative overhead. When they look at the following year, the projected year, they will allow him a six per cent increase. We are saying they should do the same with maintenance expenses, labour costs, insurance and all those kinds of things. They should simply allow a guideline increase because a big problem comes in in the next year. Landlords are promising to do all kinds of work. They get big rent increases for them and then they never do them. Then next year, because they have had a big rent increase and they know they couldn't justify it, they don't come back to rent review. The tenants are saddled with the decision of a rent review officer, made in good faith, which turns out to be not applicable at all.

We are saying, take the guesswork out of it. We basically know what the utility increases are going to be and what the tax increases are going to be. We say simply, give a guideline allowance on the rest of it. If it turns out not to be enough, then the landlord can come back after he has done the work and say he should be compensated for it. We feel that kind of thing will make hearings a lot more simple and will deal with actual expenses rather than what are in effect promises by a landlord to do certain kinds of work.

Sixth, we are saying, where the program has allowed projected cost increases and where they are found to be excessive in terms of what the actual increases are or were, the program should be empowered to require the landlord to file so that marginal adjustments can be made. A good example perhaps is in the city of Toronto where, for a landlord who was making an application in, let's say, October 1977, his increase would have been granted on the basis of a couple of fairly significant factors. At that time, people thought hydro rates were going to go up by 20 per cent this year. Also people figured that taxes in the city of Toronto were going to go up by the same margin that they went up last year, namely, another 12 per cent. It turns out that both of those are probably

quite incorrect. Hydro is going up only five per cent and taxes in the city probably will be restricted to less than eight per cent.

The rent review officer obviously didn't have hindsight back in October; he has it now. But what about the landlord who got the increase, based on those projections? Next year he is not going to come back, or he may not come back. If he doesn't come back, the tenants have been given a rent increase, based on those projections, and have no way of coming back, except at great expense and inconvenience to themselves. We are suggesting that where the rent review program makes certain orders on the basis of projections which it feels are justified at the time but finds out later that they are not justified, then it can in effect recall that landlord and say, "Come back. We want to do some adjustments."

Finally, we are saying that where applications are made with respect to buildings or projects which have previously been reviewed, the program should be required to make such adjustments as are necessary so that actual rent increases reflect actual cost increases.

Those are the submissions we are making to you today. We apologize to you for not having been able to bring this to you with the complete endorsement of all our members. We haven't had that much time to prepare this. We want you to accept this as our initial presentation. In future sittings, you will be receiving submissions from other tenants' groups, many of which are affiliated with the federation. We would encourage you to look upon those as a part of this submission. Finally, we would also like to reserve the right, if we could, to come back if at any time we feel that it would be necessary to make further submissions.

**Mr. Chairman:** Thank you, that is a good piece of work, Mr. deKlerk. Could you perhaps stay there for a moment and let me just ask the committee a couple of things.

To review our times for everyone and the other witnesses who will speak to us today, we are going to go through until 12:30 p.m., resume at 1:30 p.m. and go through until 4 p.m. Is it the committee's wish that we proceed now to ask Mr. deKlerk questions?

**An hon. member:** Right, while he is here.

**Mr. Chairman:** May I then just do this too. There are three other people who wish to speak to us today. Mr. Ernest Beck, from North Bay, I believe is here. Mr. William Krehm?

**Mr. Beck:** I am here, sir, but I was not intending to present my brief today. It will



be ready for copying next week and with your permission I'd like to present it next Wednesday.

**Mr. Chairman:** Mr. Szoboszloi?

**Mr. Szoboszloi:** Yes, Mr. Chairman, I would like to talk to this committee because I have lots of problems with landlords and nobody will talk about it. They are talking about tenant problems and rent control, but this is a dirty, criminal conspiracy here against the tenant and the interests of the British Empire.

**Mr. Chairman:** You are here and you appear to be ready, so some time before four o'clock—

**Mr. Szoboszloi:** The British Empire, every politician—it is a really important submission. I am a former lecturer at the law school, and an independent candidate for the Spadina riding.

**Mr. Warner:** Mr. Chairman, on a point of order, I believe that if the gentleman wishes to make a presentation that is fine and he can wait his turn.

**Mr. Chairman:** If you can stand by, thank you. We are glad you are here.

**Mr. Warner:** We are pressed for time. We will hear it in due course.

**Mr. Chairman:** Mr. deKlerk, there are people on the committee who would like to ask questions. If I may just do two or three fast ones. What is your profession?

**Mr. deKlerk:** I am a community legal worker with Metro Tenants Legal Services. It is a community legal clinic operated by the federation and funded under the Ontario Legal Aid Plan.

**Mr. Chairman:** When was the association formed?

**Mr. deKlerk:** I think we had our first annual meeting in October 1974.

**Mr. Chairman:** That's fine. Thank you again, that is a good piece of work.

**Mr. Warner:** On a point of order before we begin, does the gentleman from North Bay have a particular time constriction, a plane to catch or something? Do you have a plane to catch at a particular time?

**Mr. Beck:** No, I have not and I would like to add something after the last speaker. I think I would like to go back home and talk to all the landlords because apparently we have to protect ourselves.

I would like to come back next week. I will have made up an answer and also questions that I would like to put. As it is now I feel like a little mouse hidden behind the tenants.

Interjections.

**Mr. Warner:** That's fine, I just wanted to be clear if there was a time problem, that is all.

**Mr. Beck:** No, it is fine. You can take all the time in the world.

**Mr. Warner:** Okay. I had one other point of order before I begin.

At the end of our last sitting I raised with the Chair the question about the Ontario Rent Review Program Report to the Minister, 1977, and asked whether or not we were going to receive a critique of the rent review program. This document, Ontario Rent Review Program Report to the Minister, is clearly not a critique of the rent review legislation.

I don't have any other document from the minister in my possession. I understood there was to be a similar kind of report for 1976 and would urge that if the letter hasn't already gone that there be a letter to the minister, asking for whatever critique of the existing legislation has been done. I suspect that there is none—that the program in fact has been running for a couple of years without there being any serious critique of the program. The legislation has been in place for some period of time and yet no one has bothered to examine it to see where the faults are. It is pretty incredible, as far as I am concerned, and somewhat irresponsible on the part of the government to allow that to happen. At any rate I think it is important for the committee to try to find out if there is any such critique of the program, any examination of the rent review legislation, with suggestions for its improvement as done by rent review officers or anybody else. I think that is important to our work.

[11:30]

I had a few questions for Mr. deKlerk. I certainly wish to commend you on an excellent presentation, particularly on short notice. You stressed the short notice for the hearings on page 17 of the submission you've made. But your presentation is pretty definitive for short notice and you are obviously to be congratulated on what you have done.

There were a couple of matters in this, one in particular, where I can't remember the address. I'm hoping that Mrs. Campbell can. It was a building off St. Clair Avenue where, back in the fall of 1975, there were some serious problems. On page 14 in your brief, sections (c) and (d), you talked about the provision for the landlord in regaining



possession of the premises for his own use and that that should be tightened up to exclude corporations. Do you recall the building I'm talking about?

Mrs. Campbell: Yes. They are still having trouble.

Mr. Warner: Yes, two and a half years later. I think that example which the committee, I'm sure, would be interested in underscores the two points raised in the brief.

Mrs. Campbell: That was not a request for use by the owner but rather the desire to make renovations and major repairs.

Mr. Warner: And in so doing, he was tossing the tenants out on the street. The building then was going to be used as corporate suites, I gathered, or in some way for entertainment.

Mrs. Campbell: What it is being used for today is not as a corporate suite, as far as I understand it.

Mr. Warner: I don't know the present status of it but I do know, because I attended a couple of meetings, that the tenants were extremely upset. They were going to be thrown out and there didn't appear to be any legal protection. I think that underscores your points (c) and (d). Under (c) the landlord could have done the same kind of thing. It is quite a valid point. I can't see there would be too many disagreements.

Mr. deKlerk: On that particular one, we are actually very concerned about those things. In the past few months I would say we have received more complaints from tenants who had been given notices under those sections than we had in the year previous to that. There seems to be a conscious effort to focus in on those two particular aspects of the law to try to evict tenants.

Mr. Warner: I wanted to ask you about the base rent. You talked about it in terms of financial loss and you talked about it in other terms. I don't know how many hearings the Federation of Metro Tenants Association has been involved in, but through the hearings have you been satisfied that the information provided by the landlords accurately substantiates what the base rent of the building should be? By that, I mean that it clearly identifies what the mortgage requirements are, what the interest payments are, how many mortgages there are on the building, when they expired and all of that financial information.

Mr. deKlerk: I think it has to be understood that under the present requirements, the rent review Act and the program do not

require the landlord to justify the base rent. Whatever he charged in July 1975 was legal and de facto.

Mr. Warner: I am a little unclear as to what you would like to see as a starting point. Suppose I'm a tenant in a building, I have received my notice and I am going to rent review, what should I expect? Where should we start from? That's what I'm asking.

Mr. deKlerk: I think in the long term we would like to see some kind of policy that relates the rent that people pay to their ability to pay. That is the most important thing, their ability to pay. Hopefully also the rents that people pay would have some relationship to the cost of running that particular unit. If there is no problem for the tenant with respect to his ability, well then let's relate it to the actual running costs.

But I think you really can't have a rent review program with those kinds of principles. You are talking about a control program which says this is going to be the rent, period, as long as you are there. I think that when you are talking about social housing—in other words non-profit housing—that's the kind of thing that you are getting into there. That kind of program should be encouraged as much as possible; that is where the government should put its money. If it is going to put money into housing, then put it into something that is going to do work for you over a long period of time.

But within the present program of reviewing rents it's virtually impossible to talk about a fair rent. I think the Legislature ran into that problem back in 1975, or whenever it was, when it tried to incorporate Ontario Housing within the rent review program. If the costs justify a 12 per cent increase and if the tenant can't afford it, which do you choose? You can't have a review program which increases rents on the basis of increased costs, on the one hand, and have another program that works together with it on the idea of the tenant's ability to pay.

So we are not really addressing the question in this paper of the tenant's ability to pay. Many tenants are paying too much rent. I think there is no question about that. What this paper addresses is developing housing policies which in the long run will find them a place to live; in the short term continuing to operate a respectable rent supplement program so that those people can be helped at least; and then thirdly, trying to minimize rent increases.

If you allow a 10 per cent rent increase every year, or even six per cent, if you are operating a rent supplement program it

means that each year you are going to find rents are going up faster than incomes, so the people who are there will pay more each year. If you supplement one person's rent by so much every year, if his rent goes up faster than his income, you are going to have to pay more for that person. You are also going to find that more and more people are going to need the supplement, and as long as the rents go up, there is no end to that program. So what we are suggesting is that on a long term basis rent supplement is not a good program.

**Mr. Warner:** You mentioned about too many redundant hearings and so on; has it been your experience that in Metro at least there has been a conscious effort to split up the hearings for buildings into a large number of hearings for the same buildings?

**Mr. deKlerk:** I think very definitely. There is one case in particular that comes to mind where we had a hearing—I think it was in December of 1976 that the initial hearing was held—it was for a building that happens to be in Mrs. Campbell's riding—

**Mrs. Campbell:** A lot of them are.

**Mr. deKlerk:** —a limited dividend building with many low income people, many immigrant people. The tenants did, I think, an incredible job of trying to get people to understand that they should come to this hearing and they should voice their concerns and they should express to the officer what was happening in the building. Out of about 560 units I think about 350 tenants turned out. That's incredible for that kind of a situation. The tenants were very upset because the landlord was asking for, I think, a 20 per cent rent increase and the tenants can't afford to pay that. They are low income people, many of them. Many of them are overcrowding their apartments already just so that they can afford to pay it.

So they were upset and naturally they expressed their dissatisfaction. There were some technical problems and they decided not to get a mike, so no one could hear what the rent review officer was saying. He happened to have a soft voice. No one could hear what he was saying, so the hearing did not come off.

The rent review program then decided they would have, in the course of the next 12 months, about eight hearings. That made it virtually impossible for the tenants' association to keep on top of which units were coming up which month and to try to assist those people. It was a conscious decision on their part not to have another big hearing.

**Mr. Warner:** I suspect that has been kind of a general drift. One of the buildings in my riding has close to 400 units, and of that we have got somewhere close to 75 hearings for the 400 units.

Previously, early in 1975 when the program came in, I recall one building where there were 75 units. They held a hearing for the entire building. Seventy of the units showed up. There was no tenants' association, unfortunately, but the people presented their case in such a way that the rent review officer said, "There are some real problems here and I am not going to make any decision until I personally inspect the building."

The landlord, for example, tossed in a bill for \$4,000 for light bulbs in the hallways. All right, that was ludicrous. The officer, and I give him full credit, went and examined the building. He came back and said there was no way that kind of increase goes through. I think he granted somewhere around four, five or six per cent, after he personally examined it. That was in 1975.

Today, in similar circumstances, we are getting no more than three or four people at a hearing. You split them up, divide and conquer. Then of course what is tossed in is your comment about the neutrality of an officer. We are extremely concerned about that. I am concerned when government appointed real estate agents, generally Conservative real estate agents, to run the program.

Our rent review officer was a Conservative candidate in the last provincial election—a high profile one in the riding of Scarborough West. I have to question the neutrality of a rent review officer who is that highly visible politically with a party that had no interest in rent review.

**Mr. Chairman:** When you say that was a party that had no interest in rent review, surely the candidate for the Progressive Conservative Party in that riding reflected what other candidates did, and that was that we would maintain a rent control program until the end of December, notwithstanding what the federal government did.

**Mr. Warner:** I have a feeling that it didn't matter what he reflected. On page 16, section (v); when I read that and listen to your explanation, do you think that that is a possible reason for the decline in applications for rent review in 1976-77?

**Mr. deKlerk:** What are you looking at? The projected increased cost with the exception of utilities et cetera?

**Mr. Warner:** Yes. What you said was that if it gets built in the one year and there



is no rollback, then the landlord doesn't have to come forward the next year for it. He could keep it to the six per cent so he doesn't have to go to rent review. Is that a reason for the decline?

**Mr. deKlerk:** There are a number of landlords who have been to rent review once and have gotten a good deal out of it. They couldn't have expected much more and have not done the things that they said they were going to do. Those people are not going to come back to rent review. The only circumstances under which that building will come back is if it is sold to someone else, and that guy then says that he is losing money on it and asks for another rent increase.

Generally speaking, except in a few cases, the same buildings are not coming back to rent review year after year. It is possible now to have been to rent review about three times. We are finding that some of the people who went the first year didn't go the second year, but are coming back the third year.

**Mr. Warner:** That's very interesting.

[11:45]

**Mr. deKlerk:** You see, that's the way they try to get out of the margin adjustments, because at the first hearings that were held the officers were bending over backwards to try to accommodate the landlord in what they said were projected expenses. A lot of those things were never done, and if they were done they weren't done at the cost that was projected; so they don't want to have that information come out.

**Mr. Warner:** One of the major thrusts in your paper is that all matters pertaining to the tenant and the landlord come under one umbrella, one jurisdiction, one way of handling it.

It would be a very different approach if the government were to accept it because, as you know, it is now split under three jurisdictions: Housing, Consumer and Commercial Relations and Attorney General. So it would be a departure for the government to do what you are suggesting. I think it is extremely important. There is a row of apartment buildings in a section of my riding where maintenance is not done. The buildings are about 30 years of age. It doesn't matter how often you call property standards people, I think they have almost given up. You end up in a court procedure. You put it in and then it gets adjourned. It's a year, a year and a half, two years; meanwhile, the tenants have 20-year-old refrigera-

tors that don't work. What do you do about it?

When you go to rent review—

**Mr. deKlerk:** They tell you to go to the court.

**Mr. Warner:** —they tell you that it isn't any of their business that the refrigerator doesn't work and that it is 20 years old. It's none of their business that windows are falling out. The building is in a state of disrepair and this character wants \$300 a month for it, and that is what they are trying to extract from a building that has been paid for more than once.

**Mr. Hall:** On a point of order. We will have several more meetings and we can get into this line of discussion then, can't we, Mr. Warner?

**Mr. Chairman:** David, you did say you had a question; I was waiting for the question part of it because there are five other people on the list.

**Mr. Duksza:** On a point of order: I think it is a relevant line of question. I'm not sure what Ross is talking about but to me it seems that Mr. Warner has to prepare us before he asks his questions. So I wouldn't agree with Mr. Hall's point of order.

**Mr. Chairman:** It did not appear that it was going to come to a question for Mr. deKlerk, which this portion of the day is clearly about.

**Mr. Warner:** I'm asking questions and I will reserve my privileges as a member to ask questions in the way in which I care to phrase the questions.

**Mr. Chairman:** Everybody is with you there; just make it shorter rather than longer.

**Mr. Warner:** On the last page you mentioned submissions. I am a little unclear. Is it the intention of the federation that various chapters or various groups of the federation will prepare formal briefs for presentation to the committee?

**Mr. deKlerk:** Yes.

**Mr. Warner:** Would it be possible to obtain some sort of number or idea as to how many we are talking about? At some point could you contact the clerk and let us know when and how many?

**Mr. deKlerk:** We are advising our associations that once they have decided to present a brief they should contact Mrs. Nokes or Mrs. Davidson in the clerk's office, and arrange a time to make the presentation. We are not keeping in touch with all of those things; some of these people are quite able to look after themselves. We are simply



saying, "Contact the clerk's office and make the arrangements." If you can keep in touch with them then you will know when they are coming up.

Mr. Warner: Thank you.

Mr. deKlerk: If I could just make one further comment on that. I do know that a number of those groups have indicated to us it will be very difficult for them to come during the day. We told them that at least May 1 is set aside for the evening, but I don't imagine you will go until the morning of May 2 to hear them, so I'm afraid that evening is going to be booked up very quickly.

Mr. Chairman: You are right, it is at least May 1. Whether there will be more evenings added is something that we will talk about later.

Mr. G. E. Smith: A couple of quick questions. I too would like to compliment you on the brief you presented today.

You were mentioning the formation of the residential tenancies commission. How do you propose this should be financed? Would it be financed like the rent review board?

Mr. deKlerk: Yes. I would assume that it would be financed by general government expenses in the same way the program is now, in the same way the county court is financed through the Attorney General's office and so on. I might just suggest to you that in other jurisdictions, I think in some of the American ones, landlords are required to pay for the administration of such programs out of their own pockets. Many of those jurisdictions are very pro-tenant. So it's something we might think about.

Mr. G. E. Smith: On page 38 of the green paper, where they are referring to the possibility of setting up a tribunal, the paper suggests that it could be financed in whole or in part by the landlords, and that the interest from the tenant's deposits could be used to help defray the cost. Would you think this would be reasonable for both to contribute?

Mr. deKlerk: The difficulty with that, I think, would be on the one hand that many landlords now use the deposit to basically help their cash-flow problems. What I would be concerned about is that if they no longer had access to that money, they would be effectively asking tenants to pay more rent.

Mr. G. E. Smith: I'm not certain about the technicality of this; all I'm asking is, do you think the tenants would be in agreement to use the interest from the money, no matter who was holding it, to help finance

the cost of the tribunal or the residential tenancies if the landlords were asked to pay too?

Mr. deKlerk: We would object to that. It is not equitable to require anyone to pay any money as a deposit and not pay them interest on it. I think the fact that tenants only get six per cent now is somewhat abominable. But I don't think it would be fair to require them to pay that money and then to use the interest for other things. Tenants right now probably are paying a larger proportion of the program, through their taxes, than landlords are. To require them to pay even more, through losing the interest on their deposits, would be unfair.

Mr. G. E. Smith: My second question concerns the two bureaus you are suggesting, one for the landlords and one for the tenants, to provide information et cetera and, I suppose, to a degree, represent them. Would you think this would be really necessary? Certainly one group couldn't represent them, but couldn't they disseminate the information? I am just trying to look at the cost of the bureaucracy that might be involved in implementing all the proposals you are making.

Mr. deKlerk: If you look at the total cost of the various bureaucracies that are dealing with these problems now, you are looking at a large portion of the county court, where all kinds of applications are gone through; you are looking at the rent review program and the rent review board. There are two levels there, and under this proposal that would be simplified. You are looking at parts of the small claims court's time. You are looking at many of the appeals that go from the housing standards appeal committee to the county court.

You can't simply look at the budget of the present rent review program and say, "Okay, is this going to cost more?" Obviously there are going to be some costs; it's not going to be a free program. I think the government should be paying for that. I think, though, that in the long run this method of dealing with landlord-tenant problems will be a more efficient and less expensive method of dealing with these problems.

Mr. G. E. Smith: I really can't see that it would be any cheaper, but perhaps you could answer my question a little more fully as to why it would be cheaper.

Mr. deKlerk: Right now the government is paying for the administration and adjudication of landlord-tenant problems through the number of judges who sit every day in

the county court. If you start adding up their salaries and putting that into the whole budget, that is a part of the cost. Then you take some of the judges in the small claims court who hear landlord-tenant problems. Then you take some of the judges who sit in a different section of the county court who hear appeals on certain municipal levels. Then you take the rent review program and all the costs that are tied to that. Then you take the rent review board and all the costs that are tied to that.

If all those things are lumped together, the kind of program we are advocating at this point will be a more compact program and, I'm suggesting—because obviously we don't really know yet how many staff people there are going to be and all that sort of thing—it will be a cheaper program. Not only will it be cheaper, it would be more efficient. We will have happier landlords and happier tenants. And that's worth something, isn't it?

**Mr. G. E. Smith:** One more very quick question: You were mentioning two bureaus. Do you think—and I questioned it before—that this would not lead to more of a confrontation rather than conciliation?

**Mr. deKlerk:** I am just thinking of another expense that currently is incurred by municipal levels; that is, the landlord and tenant advisory bureaus. So many municipalities have those bureaus, and they could be incorporated or would no longer be necessary under this kind of a thing.

The present bureaus are not very successful in dealing with the resolution of problems where people are really at each other. If it's a very simple problem, yes, sometimes they can negotiate something, but that's all they do; they only negotiate. They'll try to bring the two parties together; they don't adjudicate. They have no authority; their decisions aren't binding or anything like that.

If a landlord or tenant goes to a place and expects to get help, he expects that person to be on his side, to speak for him; and if the next time he goes there that person is representing a tenant against him, then there is a certain credibility factor. Our office, for example—the clinic we operate—doesn't offer any advice to landlords. We tell them there is another place they can go to for advice. If we did, we would have so many conflict-of-interest problems that we would be spending all our time trying to figure them out.

It is much simpler to say to people, "Okay, this is your person. They will represent you, they will give you advice; and

they will give it to you from a biased point of view." There's nothing wrong with that, because there are different interests.

**Mr. G. E. Smith:** I have no more questions, Mr. Chairman.

**Mr. Samis:** Could I ask one supplementary on a point of information? You mentioned there were some jurisdictions in the United States where landlords help defray the cost of various commissions—

**Mr. deKlerk:** They don't help defray them; they pay for them. In Philadelphia, I believe that's the case; I also believe in Boston that may be the case. I am not sure about Boston, but I think in Philadelphia it is the case.

**Mrs. Campbell:** I, too, would like to congratulate you on presenting this brief in such a comprehensive fashion, although I honestly believe you have been presenting briefs for quite a long time and probably that's been helpful for you.

**Mr. deKlerk:** We just dust off the old ones every once in a while.

**Mrs. Campbell:** No, I didn't mean to imply that.

**Mr. Makarchuk:** You are recycling them.

**Mr. deKlerk:** Well, the same problems exist and no one is changing anything.

[12:00]

**Mrs. Campbell:** One of the things that is of interest to me is your suggestion as to this kind of reference body. I had thought, in thinking through the suggestions about a court, that if we could approach the problems of housing and landlord and tenant from the same position as we do now or are beginning to in the uniform family law kind of court. What would you see against that approach, rather than the one you're addressing yourself to?

**Mr. deKlerk:** Okay, I'm obviously not as familiar with family court as you are. I'm not sure many people are. But I understand there is some problem in making this thing a court, a judicial organization. I think in order to establish a new court you have to get the federal government to do it.

**Mrs. Campbell:** Same jurisdictional problems, yes.

**Mr. deKlerk:** Right. Okay, so that's the reason that we've shied away from that. We are concerned—and that's why many of the things we talk about in terms of procedure, in terms of the rights of the people before the commission—that this thing does everything but be a court. They have to protect legal rights and procedures.



They should be bound by precedent and the common law, that kind of thing, except that the people there won't be judges. You obviously can't appoint judges to a commission like this. You could, I suppose, if they wanted to take the job. I'm not sure many of them would. But that's why we are going towards the tribunal or commission, rather than court.

We did seriously consider a court. In fact, some of our initial discussions were along that line, and we had the family court in mind because it's a fairly informal place where people are at least beginning to feel more at home—or feel more comfortable; I hope they're not feeling at home in a court!

Mrs. Campbell: Less uncomfortable.

Mr. deKlerk: Right, right. Also there was something about that that was attractive to us. I'm not sure of this, but I understand that some of the people who were appointed judges in the family court were not lawyers.

Mrs. Campbell: Not any more is that the case.

Mr. deKlerk: Right, right.

Mrs. Campbell: At one time.

Mr. deKlerk: It used to be the case, right. I didn't realize it was no longer the case. But that was to us a very attractive thing—to have an organization that would be basically made up of people who are respected and who would have authority and who would have the authority of law behind them and the courts, but who wouldn't be so—well I don't want to say something against judges, but I think many of them aren't familiar with the day-to-day problems that people have to live with, at least the judges that tenants often come into contact with. We want to bridge that gap as well.

Mrs. Campbell: What bothers me a bit in your brief is, as I see it, that you seem to want to retain the court structure for matters of evictions, but not for other purposes. That bothers me because if you want to go the route through the court as it exists today, you really are complicating the situation rather than helping it.

Mr. deKlerk: Maybe we're misunderstanding each other. When we say in the mediation section, for example, that they would not deal with disputed eviction applications under the Landlord and Tenant Act—

Mrs. Campbell: That's right.

Mr. deKlerk: Okay, now what we're saying is that the officer level will not deal with that but it would automatically go to the

tribunal, the board section of the commission. It would have nothing to do any more with the county court.

Mrs. Campbell: Oh, I see. I didn't understand that. All right, then you're saying that you would replace the jurisdiction of the county court—

Mr. deKlerk: That's correct.

Mrs. Campbell: —for all purposes.

Mr. deKlerk: Related to landlord and tenant matters.

Mrs. Campbell: Of course. And you would replace, I presume, the criminal courts by this same body insofar as it pertained to housing standards, code violations and that sort of thing.

Mr. deKlerk: Also the violations under the Landlord and Tenant Act—

Mrs. Campbell: Yes.

Mr. deKlerk: —and the rent review Act.

Mrs. Campbell: Yes. It always seemed to me that there should be a court which would be one with landlord and tenant, tenant's rights, landlord's rights, housing code violations and probably building violations in so far as they pertain to residents.

Mr. deKlerk: Right. If I could just add something with respect to the scope and jurisdiction. We want them to be as wide as possible. We want them to be as inclusive as possible. In the time we had to draft this, we weren't able to go through all the legislation and say, "Okay, here's something that involves housing and tenants, and that's got to go in." We couldn't come up with a complete list. But we hope that perhaps something the staff of this committee could do is to say, "Okay, if this is a viable alternative, what exactly would it include?"

Mrs. Campbell: When you're speaking about tenant security of tenure—most of us really fought for that—do you see a place for some opportunity to provide landlords with speedy procedures, particularly where his premises are being destroyed or when there is a deliberate refusal to pay rent? Do you see any place at all for that kind of consideration?

Mr. deKlerk: I think generally we see this commission is a part of that. It's also very frustrating for a tenant who is under the threat of eviction—

Mrs. Campbell: Sure.

Mr. deKlerk: —to have to wait sometimes for months, to know whether they're going to have to move and then when they do find out they have to move within a couple of days. That's very difficult for tenants. So we



too would like to see a situation where those kinds of problems can be dealt with much more quickly.

**Mrs. Campbell:** On both sides.

**Mr. deKlerk:** On both sides. I think there's no question about it there are tenants who—

**Mrs. Campbell:** They don't self-destruct.

**Mr. deKlerk:** No, they don't. I think there are tenants who are in arrears in rent and who could pay. They just don't pay the rent. I think it's important to differentiate between those people and those who, in fact, are having hardship and who simply don't know where to go to find someplace that they can afford. I think it's very unfortunate that that kind of a case is dealt with in the same manner as the person who is consciously and willingly in arrears in rent and doesn't give a damn about the landlord.

The kind of tenant who can afford to pay the rent, I think, is not appreciated by other tenants either, because in effect they end up paying for that tenant. So we would like to see a procedure where that kind of problem can be dealt with very efficiently.

**Mrs. Campbell:** You have said there should be no allowance for major repairs except when there is a municipal work order. What happens to the case where there has been vandalism; where there isn't a work order but where obviously something has to be done? It has nothing to do with the ongoing maintenance by a landlord. Surely that would be the kind of situation where he could get some relief, would you not think?

**Mr. deKlerk:** Sure. There are two sections where we deal with that problem. One is under the Landlord and Tenant Act where a landlord is trying to evict a tenant because he wants to do repairs. We're saying there it should only be allowed if it's required by law.

The other section is in rent review, where we're saying the costs of bringing a place up to standards is because there's a work order, then it shouldn't be allowed. There are extenuating circumstances, one can just about say always, so I don't think we would like to see a hard and fast rule in situations like that. If for example there was a fire, there obviously might be a major repair.

**Mrs. Campbell:** Most likely would be.

**Mr. deKlerk:** Right, and it needn't be through the landlord's neglect and I suppose it would be covered by insurance. But let's say, for example, there was no insurance. That kind of cost probably should be included. Just to clarify it, what we're looking at here is where the standard of main-

tenance has declined through the landlord's neglect.

**Mrs. Campbell:** All right. Prefacing that, I have no problem then. On page 14 on the (d) section, where you're talking about restricting it to incidents where the repairs and renovations are required by law, that goes to the point of the buildings to which Mr. Warner made reference. At that point in time, what we suggested was that in that situation the Act should require the repairs to be of such a nature as to require a building permit. It seemed that perhaps it covered situations better than just saying, required by law. In that case, nothing they were doing required a building permit.

**Mr. deKlerk:** Right now the Act does require it.

**Mrs. Campbell:** That's right, that's what we put in.

**Mr. deKlerk:** What we're concerned about is that that be restricted further, because right now you may want to do repairs that require a building permit, but that doesn't per se mean they're extensive. You may, for example, have two adjoining rooms that have a supporting wall. You want to knock that wall down and simply put some dividers up or something. That wouldn't necessarily be a very extensive repair and certainly wouldn't require taking possession by the landlord, but it would require a building permit. Another example is if you want to put in a fireplace.

**Mrs. Campbell:** Not if it weren't a retaining wall, would it?

**Mr. deKlerk:** It would require a building permit if it were a supporting wall. Anyway, the point is that just because a building permit is required doesn't mean it's extensive. If you want to change the plumbing you need a plumbing permit, but that doesn't mean that it's an extensive repair. We're having problems with that kind of thing right now.

**Mrs. Campbell:** Okay, as long as we know you're having problems. I don't think I have any other questions at this time.

**Mr. Duksza:** I have some general questions. I'm not sure about this. You talk about the federation when you made a presentation. I was late for the beginning of your presentation.

**Mr. deKlerk:** I think it was after the presentation.

**Mr. Duksza:** I would like to ask more specific questions. How big is the federation and what does it represent?

**Mr. deKlerk:** We represent tenants in Metropolitan Toronto. As far as we know, we are the only such organization that exists. We have various branches within Metropolitan Toronto. We have municipal tenant councils. There is a tenant council for the city of Toronto and one each for the boroughs of Scarborough, Etobicoke, East York, York and North York. That's our internal structure.

Within that there are member associations which affiliate with the federation and pay a membership fee. They charge their own membership fee and then part of that goes to an affiliation with us. There are approximately 100 groups we are working with, and some of them are at various stages of the affiliation.

**Mr. Hall:** How is representation determined? Is there an election or what?

**Mr. deKlerk:** The annual meeting elects five people directly to the federation executive. Each council then, through its own elections, appoints two people to our executive so that we have a total of 17 members on the executive.

**Mr. Duksza:** That's from the whole of Metro?

**Mr. deKlerk:** Yes.

**Mr. Duksza:** There are six subunits, one for each of the boroughs?

**Mr. deKlerk:** Yes.

**Mr. Duksza:** Six. I think Mr. Hall's point is well taken. I intended to get to that point anyway. You have those six subunits. Each unit has how many associations? How do they break down into that 100 which you mentioned? Approximately, it doesn't really matter.

[12:15]

**Mr. deKlerk:** The fewest are in East York. There are only a couple or three in East York. The largest group is in the city. Then there are quite a few in Scarborough. I'd say Scarborough would be second, then North York, Etobicoke and York.

**Mr. Duksza:** And they all pay dues, do they, to the federation?

**Mr. deKlerk:** Yes.

**Mr. Duksza:** In the city of Toronto proper, how many units do you have? How many groups would be affiliated?

**Mr. deKlerk:** Within the city of Toronto I think there are between 20 and 30 affiliated groups.

**Mr. Duksza:** And they are based on specific apartment building blocks; or how do you organize that?

**Mr. deKlerk:** Generally, yes. There are a couple which are area associations, particularly one that you are familiar with, the Parkdale Tenants' Association.

**Mr. Duksza:** Maybe you could give us a paradigm of sorts.

**Mr. deKlerk:** Okay, right. The Parkdale Tenants' Association is an association that covers a geographical area. There are, within the Parkdale Tenants' Association—I'm not sure what the membership is, but there would be tenants from perhaps a dozen or so buildings that otherwise would be 12 members for us; we have the one member, the Parkdale Tenants' Association.

**Mr. Duksza:** But that's unusual isn't it, for Parkdale in that sense? Most of your others are—

**Mr. deKlerk:** Are building associations.

**Mr. Duksza:** Are building associations from the small apartment to the large apartment?

**Mr. deKlerk:** Yes; they vary in size from, let's say 10 to 500, that's a good range.

**Mr. Duksza:** I'm questioning some of these points merely to show how widespread the association is. People from outside the city may not realize how widespread that association is and how they get to join it.

**Mr. deKlerk:** If I could just say something on some of our activities. We have had a lot of pressure from tenants outside of Metro to represent them. We have had to resist that pressure simply because we don't have the funds to begin to establish a province-wide organization. It's a big province and the urban areas are spread throughout the province. It would be very expensive to start that kind of organization with a staff, office, people who can go around and visit the various municipal organizations. We simply had to say we can't get into that.

**Mr. Duksza:** What kind of advice can you give? I know it may be asking too much to have the tenants outside simply go to you.

**Mr. deKlerk:** We send them literature, depending on what their particular problems are. Sometimes we have written support letters for things they are involved with. We will give them the benefit of our experiences in organizing any court actions and things like that. Certainly submissions like this one we will share with them.

**Mr. Duksza:** You have a 17 member executive?

**Mr. deKlerk:** Yes.

**Mr. Duksza:** That's for all of Metro?

**Mr. deKlerk:** Yes.



**Mr. Duksza:** What kind of staff do you have?

**Mr. deKlerk:** The federation has, up to now, only one staff member and that's basically an office co-ordinator.

**Mr. Duksza:** An office co-ordinator; but you must have some help. What kind of help do you get? Are they mostly on a volunteer basis?

**Mr. deKlerk:** Yes. The members of the executive do spend a lot of time. That's one of the problems, because there is a lot of tenant organizing to be done throughout Metro. It's difficult to find enough time to do all that needs to be done. Nevertheless, I think we're coping with it, and we're trying to raise money to employ more staff.

**Mr. Duksza:** But you said you really only have one.

**Mr. deKlerk:** That's right.

**Mr. Duksza:** You have one on staff. Then who does the organizing?

**Mr. deKlerk:** The organizing is done through volunteers, generally in the evening.

**Mr. Duksza:** Through volunteers; it's obviously an extra job for those unpaid people.

**Mr. deKlerk:** Yes. Also what happens is that the clinic I work for, and it is run for the federation, which is as I said earlier funded by the Ontario Legal Aid Plan, employs five people right now. Those people applied for volunteer work with the federation as well, like myself. The clinic has always had as its orientation that it approach problems with the point of view of not dealing specifically with individuals. For example, if tenants call us up and say they have a rent review hearing coming up, we will say to them, "Get in touch with other tenants in the building and we will help you with that, but get in touch so that it's not just you, but there's a bunch of others." If there is a problem with maintenance in the building, then we will say, "Okay, have you called the inspector in? Have you had a meeting with tenants to try to put the pressure on the landlord that way?" That involves a certain amount of organizing, so there is organizing done by us on that level, and many other clinics as well.

**Mr. Duksza:** You must get many telephone calls, requests and letters; you clearly cannot deal with all of it, so you refer most of it to volunteers, to those people—

**Mr. deKlerk:** I would not say most of it. We do refer to other clinics, but we work very hard as well.

**Mr. Duksza:** I have no doubt of that, Mr. deKlerk, What I am trying to establish is whether your resources are adequate.

**Mr. deKlerk:** No, they are not.

**Mr. Duksza:** No. I won't ask what kind of resources since the committee is extremely concerned with a number of matters like that, among other things, in terms of helping tenants to organize and how to do it.

**Mr. deKlerk:** For example, one of the things we recommend on the tenancy commission is a tenant bureau. We would be happy to train and to place one person, in conjunction with other clinics also interested in tenant work, let's say to have two people there on a full-time basis. That way the people wouldn't necessarily be responsible to the commission itself, because there might be problems with the commission doing advocacy work for people who are appearing before itself. So we say, we would be quite prepared to support that kind of thing and help staff it. If you will give us an office there and provide the funds to pay, let's say, one or two salaries, then we will undertake to have someone there at all times. That is a way of assisting tenants, giving them assistance that they need.

**Mr. Duksza:** I understand what you are suggesting and it's something which I think both myself and maybe other people on the committee will want to consider, how to deal with this matter.

Let me return to a couple of the other points. It's a large federation with a very limited financial backing and a significant volunteer staff, but could we talk in terms of numbers, about how many tenants in the Metro area are involved, how many tenants you think there are, because I think the figures are constantly changing?

**Mr. deKlerk:** There are over a million tenants in Metropolitan Toronto.

**Mr. Duksza:** Yes, and I know that even with a volunteer effort you cannot reach a million people; massive organizing is necessary. Just to take a pamphlet to each door in an apartment takes someone's whole evening. But it is important to us to know what kind of a support your association has in terms of numbers and otherwise.

**Mr. deKlerk:** We have yet to hear any tenants speak out against us. That gives us a sense that we are saying the right things as far as tenants are concerned; that they support us. Many of them have never heard us. We find that whenever there is a lot of publicity around a particular issue, or one



of us is on television or something like that, then people hear about us. The next day people are calling up like crazy and saying, "Where have you been all this time?" They have just heard about us and are excited about finding someone they can go to for help. In the same sense that perhaps the labour movement is considered as a spokesperson for working people while it obviously does not officially represent every working person in this province, it's that kind of feeling that we have, that people support us in the things we are doing.

**Mr. Duksza:** That's a very good point. You pointed out that in the building where I live—we don't have a tenants association, but a few years back there were two individuals who took action about a pollution problem, an incinerator, and two of them carried all the burden, at various levels, writing letters and sending out little notes. We never formed an association. The only reaction I ever showed was when I said, "You're doing a good job. Keep it up."

This was on a very informal basis. You cannot expect a massive one million membership organization; although it would be a real power. Of course, it is true that people do tend to organize much more when there is a threat and security of tenure comes in. Has there been a spate of that recently?

**Mr. deKlerk:** I think that what's happening is that tenants are becoming very much more aware. I talk at meetings and have discussed with people what their concerns are. First of all, they want to be sure that if they do something they will not be evicted. I think that security of tenure is at least as basic as rent review in people's minds. There's no sense in going to a rent review hearing to keep your rent down if the landlord, after seeing you there, can turn around and evict you. You can give all the encouragement and even guarantees that that can't happen, but as long as the tenants feel that that might happen they're not going to do anything.

One of the biggest obstacles for us in terms of organizing, in getting tenants together to enforce their rights, is the fear that they will be evicted. In a sense there's no reason to fear that because the Act does give a certain amount of security.

**Mr. Duksza:** It was more typical, I would say, when people were starting to organize two and a half years ago.

**Mr. deKlerk:** People weren't organizing as much then, but the psychological fear is still there. There have been too many cases where landlords have successfully evicted people, and there have been too few cases where

those evictions have been successfully fought and given a lot of attention, for people to begin to feel in their hearts that they don't need to worry about it.

That's why we think it's really important and we're really dissatisfied with the green paper in this regard. They don't deal with security of tenure, it's a non-issue for them. That seems to be a major shortcoming. The paper has policy options for continuing tenant protection, but they don't anywhere in the paper say tenant protection is something that we are committed to.

**Mr. Duksza:** Of course, there would be no security of tenure if there were no security in terms of rent.

**Mr. deKlerk:** Yes, I think that's true, and that has to be remembered. But if there's security in rent, that doesn't necessarily mean there's security of tenure.

**Mr. Duksza:** Mr. Chairman, it is almost half past 12; I have more questions to ask of Mr. deKlerk. I don't know what time he has available and what the schedules of other people are.

**Mr. Breithaupt:** Yes, what are your plans for this afternoon, Mr. Chairman?

**Mr. Chairman:** Dr. Duksza has more questions; I know Mac and George Samis have questions to ask Mr. deKlerk, and I have some myself. I recognize, as they do, that you and people from your association will be coming back.

**Mr. deKlerk:** I can come back this afternoon. There's no problem with that.

**Mr. Chairman:** Let me come back to that. First, is Mr. Albert Kain here?

**Mr. Kain:** Yes. My proposals would be for the committee to consider a royal commission on the conditions of housing.

**Mr. Chairman:** So, Mr. Kain, it's not your intention to address the committee today then?

**Mr. Kain:** No, I want to talk to the clerk and make an arrangement.

**Mr. Chairman:** Thank you very much, sir. That will be done. Mr. Beck from North Bay would after all like to speak to the committee this afternoon at 1:30. Is that correct?

**Mr. Beck:** It is not necessary, Mr. Chairman. I would like to come back next week.

**Mr. Breithaupt:** This is the difficulty, Mr. Chairman. Mr. Krehm has said that he wants to come back and Mr. Beck wants to come back. We're looking at something that we've got only six weeks to do. It seems very difficult to have people who have been planned for coming back next week, when there may be very many people who want to see us. It's

going to be very difficult to shift things around because someone thinks they'd rather wait, for whatever reason. That's fine if we can do it, but I'm just wondering what your timing is for others who want to appear. Of course we want to accommodate as many as we can, but we've got six weeks.

[12:30]

**Mr. Makarchuk:** Mr. Chairman, we haven't been into this committee very long, but I think it's becoming more and more obvious—and it's something I was concerned about at our first meeting—that there's no bloody way that, in six weeks, we're going to be able to come up with any kind of reasonable report that reflects the opinions of the people of the province of Ontario. I have a feeling right now that the thing we should be saying to the minister is: "For gosh sakes, introduce legislation to extend the date for expiry of a rent control bill from October 1 to either a year hence or two years hence, and give this committee the proper sort of time and resources to do the job that should be done."

We're dealing with just certain little aspects, but there are various factors, like the idea of the rent tribunal, et cetera, that have some novel appeal that is worth investigating. How in the next six weeks can we write a report to the minister which will probably be used for the basis for legislation? I think it's impossible. I think the committee at this time should seriously consider whether we can really do what we're supposed to do in the period of time that we have available to us.

**Mr. Breithaupt:** It may be that consideration should take place once Mr. Feldman has given us his consulting outline as to the task he thinks should be done. I think that would reinforce the comments that Mr. Makarchuk has made.

**Mr. Makarchuk:** I think the tasks in terms of the whole concept of housing—the whole economic analysis in housing, et cetera—can, in itself, take a lot of time.

**Mr. Breithaupt:** Sure.

**Mr. Makarchuk:** Somehow, we're sitting here, and we seem to think that we'll come in

with some kind of a Band-Aid proposal that's going to take care of the housing problem. That's not going to take care of the tenants' problem, the housing problem, the tenure problem or anything like that. I think we have to start realizing that we can't sort of play these little games and sit here, bring in a Band-Aid today and we're going to have a problem resolved tomorrow.

**Mr. Chairman:** There's no question about all of the points you've made. We'll talk about those again, I'm sure. But of more immediate concern is what we are going to do between 1:30 and 4:00.

Let me just make two comments. Mr. Beck, you did come prepared to speak to the committee today, and in light of the rather detailed report from Mr. deKlerk, you opted to take another week. May I suggest that at 1:30 you do take 15 minutes to speak with the committee, and then see if a week from now there will be an opportunity for you to come back, which everyone on the committee hopes. But at least it would cover your presence here today. So if you, sir, would start at 1:30; and then—may I call you Zoltan?

**Mr. Szoboszloi:** Yes.

**Mr. Chairman:** Mr. Beck and Zoltan, would you try to restrict yourselves to approximately 15 minutes each? I mention that because I think we've got to get these internal things finalized a bit today, such as where are we going to travel and when, because we have to advertise in those centres that we will be in. So both gentlemen will make themselves available at 1:30 and then the committee can finalize its travel arrangements—internal work in other words—and that will look after this afternoon, I think. Mr. deKlerk, are you in a position to come back this afternoon as well?

**Mr. deKlerk:** Yes, I can come back this afternoon.

**Mr. Chairman:** Would you try to be back around 2 o'clock?

**Mr. deKlerk:** That's fine.

The committee recessed at 12:34 p.m.

## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
Campbell, M. (St. George L)  
Dukszta, J. (Parkdale NDP)  
Hall, R. (Lincoln L)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Samis, G. (Cornwall NDP)  
Smith, G. E. (Simcoe East PC)  
Warner, D. (Scarborough-Ellesmere NDP)

### Witnesses

Beck, E., President, North Bay and District Landlord Association  
deKlerk, J., Chairman, Federation of Metro Tenants Associations, Toronto  
Kain, A.  
Feldman, L. D., Lionel D. Feldman Consulting Limited  
Szoboszloi, Z., Toronto





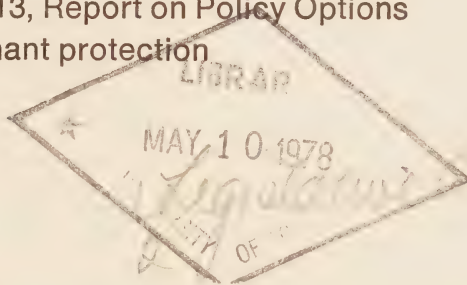


# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### Second Session, 31st Parliament

Wednesday, April 19, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

WEDNESDAY, APRIL 19, 1978

The committee resumed at 1:46 p.m.

### TENANT PROTECTION (continued)

**Mr. Beck:** My name is Ernest Beck. I am the president of the newly formed North Bay and District Landlord Association.

Ladies and gentlemen, it was stated before by one of the members here that he would like to have rent review continued. I don't think the rent review should be continued because it doesn't do any good at all. I can give you one preview of it.

In North Bay we have one apartment building with six apartments on one floor, all two-bedroom, identical. They are priced from \$113 at one end to \$202 at the other end. Why?

Second, as I stated before, I wasn't prepared for the tenants having such an overwhelming voice in Toronto since we do not have that up there. We have just formed this landlord association because—and it was not mentioned this morning—it is said that all landlords are overcharging and are ogres to their tenants. We have to understand one thing and we understand it up there—we are fighting a hopeless battle because tenants are 100 to one and for politicians in here 100 votes are better than one.

Therefore, I think that this committee should think a little bit in favour of all people, not just of votes for the next election. It was not mentioned here this morning there are tenants who are going to welfare or community services to collect the rent to pay the landlord. They are going back with a cheque for \$160, which is just enough to cover the rent and which was given them for the rent, but on the way home they pass a TV and hi-fi store; the tenant sees a hi-fi he would like to buy. He has a cheque for \$160 so the heck with the landlord. "I will buy myself a hi-fi and since I am not working, at least I can listen to some music." So from now on the landlord is sitting in his apartment listening to music to 4 o'clock in the morning. Now what protection has he got?

There were many things in what was presented this morning. I would ask to be allowed to come in again next week; I would

be here early so I could be first up and I would only take about an hour or an hour and a half. I think that the members of the landlord association would certainly like to hear what was presented here today because there are changes to be made.

The sessional paper's title states one thing. It says, "policy options for continuing tenant protection." What about the landlord? He must count too. When we increase rent in a building tenants come in—I have had them myself—renting an apartment which is reasonable, a two-bedroom apartment up north is \$160; it is nicely painted, decorated, repaired, has carpet on the floor. Three months later the tenant skips the apartment. He owes me for the last month's rent. Besides, I have to spend about \$2,000 fixing burnt carpet, kicked doors, broken windows; there are no light fixtures left. Who protects me from this?

This is why I am stating that there are many things to be changed. What I have today was really only to say, terminate the rent review board and set up a self-regulation board with government assistance. There should be the right of appeal to an arbitration board to settle disputes between landlord and tenant. If this fails, the dispute should be taken to a higher board to act under the judicial system without having to pay high court costs for either tenant or landlord.

The first and the last month's rent should not be counted. The first month's rent and a security deposit should be allowed to be collected even if we have to pay six per cent on the security. Because we have no protection when they are running out.

It was said here this morning: "Termination of tenancy notice should be dropped to 30 days." This would be satisfactory to landlords too, I think. There should also be nuisance clauses for tenants causing undue damage, disturbing others, failing to pay rent, impairing the privilege of others, or committing illegal acts. They should be allowed two warnings, after which a maximum of 72 hours' notice of eviction should be given.

I don't think this is too much to ask. We have got to understand: A man works through his young life, he saves money, he

buys an apartment building. He now wants to sit on easy street so he takes his savings of \$10,000 and puts it into a building. He gets three tenants in. If this is a fourplex, he takes three tenants in. Within one year he loses the building—because the rent was not paid to him and because of the damage that was done to the building. He is now on welfare again.

These are things that we have to look back on—people like that. I am not thinking of the big apartment owners with 100, 200, 300 apartments. They can stand a little thing like this. But people with one-, two-, three-, four-, five- and sixplexes cannot stand things like this. They are saving up their money to buy a thing like this and therefore they should be protected.

But as I have said, I would like to go back to my colleagues and have them write down specifying the whole thing and be privileged, if I could be so allowed, to come back next week.

**Mr. Chairman:** Mr. Beck, as mentioned before, thank you for coming down, and if you could check with Mrs. Nokes—or maybe, Fran, you could get hold of Mr. Beck—and make certain that you are down for next Wednesday—

**Mr. Beck:** Yes, next Wednesday.

**Mr. Chairman:**—and as to how much time each of those who wish to appear next Wednesday will be allocated. That will have to be in part determined by how many people wish to speak, so we may not have as much time as we had today, for example, with Mr. deKlerk.

**Mr. Beck:** I can understand that, but I just hope I am allowed as much time as the tenants.

**Mr. Breithaupt:** Mr. Beck, you realize of course that the proposal that's been received from the Metropolitan Toronto Tenants' Association cites a number of problems that are perhaps of a higher profile and more difficult in Metropolitan Toronto than they might be in a community like North Bay or in some of the smaller communities. It may be, of course, that the committee will look at a need which Metropolitan Toronto might have that certain other parts of the province might not have. So perhaps when you are talking to your colleagues you would think of giving us the situation of a middle-sized community as to the need for protection or the relationship or the proportion of large buildings compared with the smaller ones you have referred to. You could help the committee by giving us an overview of what the market is in North Bay, and how the

relationships seem to be. I think that would be very helpful if you could give us some information on that from your point of view in your community.

**Mr. Beck:** I think that's pretty fair. I will consider that too. We will go into that—

**Mr. Breithaupt:** It would be very helpful to us.

**Mr. Beck:** Fine.

**Mr. Chairman:** Are there any questions for Mr. Beck?

**Mr. Duksza:** I have one. You said there was no tenants' association in North Bay?

**Mr. Beck:** There are no tenants' associations. No, I did not even know there was one existing in Toronto—and I think it's time for the landlords to get together here too.

**Mr. Duksza:** Maybe not quite as much as a million people but at least you have some, I assume.

**Mr. Chairman:** Thank you for taking the time to come.

**Mr. Beck:** Thank you very much.

**Mr. Szoboszloi:** Mr. Chairman, ladies and gentlemen, and members of the rent control committee, first of all I'd like to find out how many members this committee has.

**Mr. Chairman:** Sixteen.

**Mr. Szoboszloi:** Sixteen. Please, gentleman, what is your name, sir?

**Mr. Breithaupt:** My name is Breithaupt.

**Mr. Szoboszloi:** Mr. Breithaupt. Your name, sir?

**Mr. Charlton:** Charlton.

**Mr. Szoboszloi:** Charlton. And your name, sir?

**Mr. Makarchuk:** Sam Swallow.

**Mr. Szoboszloi:** Sam what?

**Mr. Makarchuk:** Makarchuk.

**Mr. Szoboszloi:** Makarchuk. Okay. I cannot talk to the chairman—he's busy now.

**Mr. Chairman:** Please do.

**Mr. Szoboszloi:** Mr. Chairman, you mentioned that this committee has 16 members. Four are present; where are the other 12? They are dirty thieves; they are stealing the taxpayers' money.

**Mr. Chairman:** There are how many? Six, I think, are there?

**Mr. Szoboszloi:** No. One, two, three, four, five—now one dropped in.

**Mr. Breithaupt:** Perhaps we might explain, Mr. Szoboszloi, that there are several members, I know, in the Liberal caucus with a commitment to meet with a rent review group



in their caucus meeting. There are others involved in hearings with the Treasurer (Mr. McKeough) next door. As a result, since these are being recorded and copies of any testimony will be available to the members, you can certainly feel free to go ahead and—

**Mr. Szoboszloi:** May I suggest a good Hungarian proverb: With one ass you cannot sit on two horses. These people should not be on two committees.

**Mr. Breithaupt:** That may be a problem since there are 13 committees.

**Mr. Szoboszloi:** Systems like that are so rotten.

**Mr. Breithaupt:** That need not concern you at this point. Let's hear your views on rent review.

**Mr. Szoboszloi:** Okay. Rent review—that's really important and the rent control is really important. I was imported to this colony in 1951 as a displaced person and I am yet a displaced person because I was refused the Canadian "sheep" paper. I mean citizenship, but I spell it s-h-e-e-p, because I refused to swear allegiance to the English Queen. In Canada there are only bikini queens and Dairy Queen.

**Mr. Breithaupt:** That's your privilege.

**Mr. Szoboszloi:** After the election every politician swears allegiance to the English Queen to extract from the people in the interests of the British Empire.

I am on a disabled person's allowance because I had a bad accident and my chest bone was broken. The review board—I call it the review board, but the English may call it the review board—said that in 1973 I should get \$13 rent allowance monthly and that should pay the rent. I asked to be registered as a dog. Lately I was evicted seven or eight times. I asked this gentleman, Mr. Duksza, several times to assist me to get senior citizen housing or subsidized housing or non-profit organization housing. I cannot get it because there's no justice in this colony.

I respectfully submit that I suggest to this committee they should go to Osgoode Hall, to the second floor. Just before the library they've got a glass ceiling. They have a British Crown painted and a Jewish star. Because I'm not British, I'm not Jewish—I am Arab—I cannot get a place over my head because no rent control exists in this colony. Rent control should be how it is in the civilized countries. Civilized countries measure per foot—how many feet is this apartment; how much money the landlord has the right to collect; how much tax he is paying. This is controlled.

**Mr. Breithaupt:** Which countries do this?

**Mr. Szoboszloi:** In Germany, in Switzerland, in France. But in this colony this does not exist. I know this costs lots of money and I can even suggest what can finance this—the veterans' pension. Namely, the soldiers who fight for their flag and their country. Everybody knows that. Canada had no flag in the First World War or the Second World War. This means the Canadian veterans were only assassins and murderers.

**Mr. Breithaupt:** That's stupid.

**Mr. Szoboszloi:** You're stupid, because you don't know anything whatsoever.

[2:00]

**Mr. Chairman:** Excuse me, Zoltan. You have obviously a broad range of concerns, as do we, but we are going to have to address ourselves just to the matter of rent review, which is of most importance now.

**Mr. Szoboszloi:** I was talking about rent review and rent control and this jerk called me stupid.

**Mr. Chairman:** Excuse me, I'm sorry, that's just not acceptable.

**Mr. Szoboszloi:** Yes, but he called me stupid, please.

**Mr. Chairman:** No, that is not correct.

**Mr. Breithaupt:** I said your comment was stupid.

**Mr. Chairman:** No, he said your comment he thought was stupid.

**Mr. Szoboszloi:** The comment was stupid? Okay, is his comment stupid? I've got other ways to support this bureaucracy: to confiscate our property of the English Queen and sell this, and from this we could provide rent controls for the people.

**Mr. Breithaupt:** What property of the Queen is in Canada?

**Mr. Szoboszloi:** Of the English Queen, the Crown properties.

**Mr. Breithaupt:** They don't belong to the English Queen. They belong to the government of Canada or Ontario.

**Mr. Szoboszloi:** Yes, but just a minute. This is what they call the Crown properties.

**Mr. Breithaupt:** It is not owned by the Queen.

**Mr. Szoboszloi:** They've got a phoney name just to cheat the people. Those are the Crown properties, please.

**Mr. Chairman:** No, that is not correct.

**Mr. Breithaupt:** It's the Crown in right of Canada. It's owned by the Canadian government or the Ontario government.



**Mr. Szoboszloi:** Yes, but the Canadian government doesn't exist because after the election every politician swears allegiance to the English Queen.

**Mr. Breithaupt:** We swear allegiance to the Queen of Canada, if you will look at the oath that is taken.

**Mr. Szoboszloi:** If I can inform you about the oath of allegiance, nowhere in the fifth schedule of the British North America Act is there mention that Queen Elizabeth is Queen of Canada, and I do inform you that in Canada only bikini queens and Dairy Queen exist, no other queen.

**Mr. Breithaupt:** You should look at the oath that is taken in the Legislative Assembly.

**Mr. Szoboszloi:** Oh, that's phoney.

**Mr. Samis:** On a point of order, Mr. Chairman, aren't we dealing with rent review?

**Mr. Szoboszloi:** I am suggesting there should be rent control as in the civilized countries to measure and control the rent of every property. This does not exist in Canada. The tenants have no protection whatsoever. I got evicted seven times. Lately I served a term in the Mimico Reformatory. For this, I am suing Judge Honsberger because he is one defunct politician.

**Mr. Breithaupt:** Why were you evicted? You said seven times?

**Mr. Szoboszloi:** Seven times I was evicted because I could not pay the rent and Mr. Dukszta was not willing or able to assist me, nor were the other politicians who are serving only the interests of the British Empire.

**Mr. Makarchuk:** Did you speak to Mr. McKeough? He's next door if you want to talk to him.

**Mr. Szoboszloi:** No, not yet. Rents should be geared to the income or the means of the people—geared to one-third of their income. If he's got money, naturally he should be permitted to live in a penthouse at \$800 a month. But if he hasn't got it, if he's got a pension, and \$60 is what we have now, show me which of you gentlemen is renting a place for \$60 a month. Who can rent a place? Nobody. We've got renters who want \$60 temporarily. In 1973 I had \$23 and I could not pay the rent. I asked to be registered as a dog because a dog has a roof over his head but we could not rent a place.

I suggest there should be rent control geared to the income of the people or to the means of the people and the tenants should have protection. Most of the places for rent are not suitable for human habita-

tion whatsoever. I suggest to you if you compare the situation in the zoo, they have bigger places to live for the lions or for the tigers than for the human being in this city or in this English colony of Ontario. I know this is the 110-year crime of the anglophone Canadian.

**Mr. Chairman:** You have two strong recommendations that there be tenant protection and that there be a rent program that is geared to income. Is that correct?

**Mr. Szoboszloi:** Yes.

**Mr. Chairman:** Do you have perhaps one other specific recommendation?

**Mr. Szoboszloi:** My specific recommendation, which is one of the most important, is that the tenants have no protection whatsoever. I call myself the voice of the mutes because we are talking about landlords who have 200 apartments but nobody checks on the people who try to rent a place. I suggest to this committee that some member of it come with me and we will go down in old clothes and try to rent a place. The building inspector or the health inspector doesn't inspect anything.

I rent a place and it's always on the third floor. When I am moved in on the third floor, I can move only into a place where there is no fire escape. After I moved in, I called a building inspector. I said I had to move out, I was scared to live there; if there was a fire I would jump. Then they made recommendations for building repairs but during that time I could not pay the rent. I am a 64-year-old man. They refused to give me any accommodation suitable for a human being.

Since Rene Levesque is independent and will be independent, I suggested to him that I am going to ask political asylum. I am going to accept the hangman's job and I guarantee that if I execute somebody who promoted English colonization he will not die within five weeks.

**Mr. Breithaupt:** I'm sure he'll be glad to accept you.

**Mr. Chairman:** You have made two good recommendations.

**Mr. Szoboszloi:** I am asking you to look into this situation. I am suggesting that this is most important, because if a person is on welfare and he gets from the authorities \$60 a month, they should give him a place for \$60 a month.

**Mr. Chairman:** Zoltan, thank you very much.

**Mr. Szoboszloi:** Or kick out this person who recommends that he should get \$60

from his apartment and tell the rent brigade or somebody to help him.

**Mr. Chairman:** Thanks for your time.

**Mr. Makarchuk:** He makes more sense than the Treasurer does.

**Mr. Chairman:** When we left off there were two people on the list. George, I think you were one on the list to speak, and Mac. Mac was actually first, and then George Samis.

**Mr. Makarchuk:** In your presentation from the tenants' association you touched on ways that governments could be involved in housing. You also mentioned the fact that you had presented briefs to various forums or various committees for a long time and that things are still the same. The way I see the problem right now is basically as a matter of dollars and cents on the part of the people who have to rent, and the cost of rental accommodation at the other end. If the people had an adequate supply of money, perhaps we would not have a rent problem. In other words, you could move and select, and the other end could charge as much as they want.

You have taken care of some of the problems through the Landlord and Tenant Act; you have provided them some sense of tenure, some security—not that great—but I can't see how you are going to resolve the problem unless you have apartments or residences available for people at a price that they can afford. That really is what it boils down to.

**Mr. deKlerk:** That is a definite problem, and that's why we recommend that in the long term the government adopt a policy and pursue that policy which looks at housing not as just another industry or as another resource that needs to be exploited, but that it be considered in effect like a public utility. As much as possible it should be constructed and managed on a non-profit basis, because in the long run, that's the only way I think you are going to be able to deal with the problem of providing accommodation at a price that people can afford. That's one thing.

I think it also has to be pointed out that just because someone doesn't have an affordability problem, therefore there is no housing problem. There are some people, maybe many, who are getting by with the rent they are paying. They are getting by in the sense that they are not being required to go on welfare in order to subsist or to exist.

I think in the first place that is really not a reflection of the standard of living that we

claim to have. We claim Ontario has a very high standard of living. The sociologists who look at such things suggest that if a person is paying 25 per cent of his income on housing he is really on the borderline, so anyone who is paying more than that is paying too much. If that is a border line, if 25 per cent is the maximum, and if we have a very large percentage of our population paying that much, then I don't think we can talk about having a very high standard of living when something as basic as housing is taking up over one-quarter of your income or almost that much.

**Mr. Breithaupt:** Do you have any statistics from your groups that have set up percentages in the various associations?

**Mr. deKlerk:** No, we are basically relying on the figures that—for example, the green paper itself acknowledges that one-fifth of the population is paying 25 per cent or more of income on housing.

**Mr. Breithaupt:** I just wondered if you had any statistics.

**Mr. deKlerk:** No, we haven't done our own research on that. I think that affordability problem has to be seen in the context of the kind of society that we live in. If we claim to have a high standard of living then people shouldn't be paying so much of their income. Maybe we should be saying 15 per cent is a realistic amount of your income to be paying on rent.

Then there is another aspect of the problem. Let's say a person is paying 15 per cent of his income on rent. He is happy where he is living and has been there for a while, then the place begins to fall apart. The landlord thinks if he doesn't do repairs then he can make some more profit. This tenant is then in the position of having to undertake legal action to require the landlord to repair the premises, or the tenant can move and he can probably find some other place that he can rent.

Why should he have to move? Why should he have to disrupt his living, his life, his family, his friends, his neighbourhood? Why should he have to give that up and go somewhere else? It seems to me that tenants should have a right to say, "I am living here. This is my home and I don't have to leave, and I shouldn't have to undertake difficult or expensive actions in order to require you to obey the law." That is not something that, as an individual, that person should have to do because that person, in effect, is becoming the police. He is requiring other people to obey the law.



I think that is the other part of affordability. People may be able to afford what they are paying, but if you start calculating in the moving expenses and things like that and if people have to move every other year, that gets to be very expensive, not only in terms of actual dollars spent but social costs and things like that.

**Mr. Makarchuk:** You're saying there is a two-pronged problem with that. In the first place it is a matter of affordability and in the second place is the whole idea of security of tenure and everything else associated with it.

**Mr. deKlerk:** That's right.

**Mr. Makarchuk:** Do you in any way see how it could be possible to have rent controls removed at this time in view of the existing cost of housing and the availability of housing, and I mean both apartment and single family or multi-family units?

**Mr. deKlerk:** It is obviously possible that they could be removed.

**Mr. Makarchuk:** I realize that, but I mean the consequences, the social costs.

**Mr. deKlerk:** Without getting into the credibility of the figures in the green paper—and I think there are some problems with them—the green paper suggests that there is probably a 25 per cent to 40 per cent differential between the economic rent—and by that I mean the rent that a landlord would have to charge on a new unit in order not to lose money, to break even—and what the going rent on the market is. Assuming that landlords would try to collect as much rent as the market would allow them to—

**Mr. Makarchuk:** That's a fairly reasonable assumption.

**Mr. deKlerk:** —yes, and that the market will reflect the cost of construction, maybe not precisely, but it will at least attempt to meet those costs, we can expect then that the rents for existing units will have to increase to meet the rents that the landlord would have to charge on his new units. That would take place in a very short period of time, maybe two or three years. So then we are talking about rent increases—apart from normal cost increases, and therefore rent increases, just to eliminate that differential—up to 40 per cent in a period of a couple of years.

[2:15]

**Mr. Makarchuk:** What you're saying then is that the rents on new apartments will have to reflect current costs?

**Mr. deKlerk:** Right.

**Mr. Makarchuk:** Be they speculation costs, all the other costs—everything else that is involved in there. What you are saying is that in your opinion the other rents which perhaps reflect previous costs will rise to the level.

**Mr. deKlerk:** Right, so you don't have two markets.

**Mr. Makarchuk:** That's right, and in effect what you are going to be doing is providing for one set of landlords a very handsome income as opposed to the others.

**Mr. deKlerk:** Precisely, and that happens in many instances now where a landlord is charging around the market rent, and let's say that that is approximately \$260 for a two-bedroom apartment. That is probably a little bit low but just use the figure. If that particular landlord inherited that building from his father and had incorporated himself into a company and has no mortgages on that particular building, but is charging the market rent, then that is complete profit apart from his operating costs, which would maybe be about 35 per cent of his total costs, or maybe 45 to 50 per cent.

**Mr. Breithaupt:** How would you change that portion of the market to encourage new construction and the provision of more units?

**Mr. deKlerk:** I think the first thing that has to be realized is that the provision of profit doesn't necessarily guarantee that new housing is going to be built, because there are people now who are making profit and they are not building, and I think that is a pitfall that this committee has to recognize.

When the green paper says we have to guarantee that profits be provided for, that is not going to guarantee new construction unless you are prepared to make a requirement that the people who make the profit are going to put that money into new construction, and that is a possibility.

**Mr. Makarchuk:** Highly unlikely.

**Mr. deKlerk:** I am not sure it is very likely.

**Mr. Makarchuk:** In your presentation, towards the end, where you have your costs and so on, in a sense what you are saying is that we will put a limit on the private enterprise system, and you realize the ideological differences that some people have towards what you are suggesting.

**Mr. deKlerk:** I realize those differences that exist and I think that for a lot of the tenants that I come into contact with they are not ideologically oriented, they are not philosophically trained, they haven't read the great people who have written economic works,



they don't know the first thing about it probably. But when they realize that the rents that they pay are, over a period of time, effectively buying a property for a landlord, and that they really don't have that many rights—they can't say to the landlord, for example, "No I don't want you to tear the inside of this apartment out so that you can renovate it." They can't prevent that. As long as the landlord goes through the proper municipal authorities he can get that, so they really don't have that much protection—they are saying, "What is going on? Why am I paying all this money so that he can take another roll to the bank?"

That is cutting across political ideologies. People are beginning to sense that there is something amiss, that something has to be changed, and if ideologies get in the way maybe it is time to change some of those ideologies. I am hearing that kind of thing from people I least expected it from; people who are quite well-to-do, people who don't fall into your category of young radicals or whatever you want to call them. They are not your ideologies.

**Mr. Makarchuk:** Maybe they are old radicals. Getting back again, sort of dwelling on the cost aspect of what you had in your brief, what you're saying in there is that we should try to limit the resale of buildings—not necessarily limit, but what you're saying is if the economic cost of a building is \$200,000 and after a period of years it's probably worth \$300,000 and you sell it for \$300,000. The new financing is up to \$270,000 or \$280,000, something like that, and the tenant then, of course, picks up—

**Mr. deKlerk:** The new mortgage.

**Mr. Makarchuk:** His rent picks up the extra cost on the interest and principal of the mortgage. His rents go up. The person who had the building originally walks away with a fairly healthy sum of money, which is mostly tax free. He's been living on at least five per cent depreciation on the building, which is also tax free for a long period of time, so he walks away with a good sum. What, in effect, you're saying is that somehow the only cost we should allow is the legitimate cost or the—

**Mr. deKlerk:** The taxes, utilities, the operating costs and that kind of thing.

**Mr. Makarchuk:** That's right. Would you advocate something in terms of that 100 per cent capital gains tax on things of that nature, or would you use some other measure? Is that something you have looked at, in terms of a tax to discourage that kind of thing?

**Mr. deKlerk:** We haven't looked at it, really, in terms of the tax benefits and things like that. I think that's something that perhaps a consultant could look into and provide the committee with some information on, because there were some changes in these things and the green paper makes an ambiguous reference to some of those changes and says that as a result of those changes there wasn't as much incentive. I think it bears looking into further.

Rent review is one of the mechanisms that regulates this sort of thing. We're saying that mechanism should look at increased rents. You're not the income tax department, so what we should do is simply say that apart from all those tax considerations that one might have, only increased operating costs would be allowed. "If you want to sell your building, fine, sell it. If you can find someone to pay half a million for it and you only paid a quarter of a million for it, if they want to buy it, fine. But the rules are these, you are not going to be given any consideration for the price that you pay for it." If people want to buy and sell under those circumstances, fine.

**Mr. Breithaupt:** Who is to otherwise set the value of what that property might be, either in current value or in replacement costs, if that policy was to be continued?

**Mr. deKlerk:** I think, again, you can't roll the clock backwards, so we're not going to be able to deal retroactively with all the cases that have come before the rent review program. What we're saying is that in the future people be advised that it's not going to be allowed. Then the setting of the value doesn't become particularly relevant, because whatever it is it's not going to be considered in whether or not the rent is going to be increased.

**Mr. Breithaupt:** Would you put every rental unit under this kind of theme?

**Mr. deKlerk:** There are presently some exemptions to the Rent Review Act. Some of them are legitimate. Many of them, for example, wouldn't be affected by this at all. At present, for example, non-profit units aren't under the Act, so if they were brought under the Act they wouldn't be affected by this.

**Mr. Breithaupt:** Or any public housing.

**Mr. deKlerk:** Or any public housing, right. The only questions that you might have are units where people are living in them themselves and sold them and then began to rent them. That might become a problem.

**Mr. Makarchuk:** The assumption is that if rent controls were removed there would be a

great boom in building apartments and therefore the problem would be resolved. I don't buy that, because even if apartments are built—and there is nothing restricting the building of apartments right now, the new apartments do not come under rent control as it is—but assuming they were going to be built, they would have to take into account today's land costs, today's buildings costs and everything else. There would be the economic cost plus all the other costs on top, plus the profit et cetera. Even if you had a flood of apartments on the market the prices of those apartments would still be fairly high. In effect, is this the day when we'll aid the tenants? Do you see this as being a partial answer or any kind of an answer to problems?

**Mr. deKlerk:** There is a problem I think with the assumption that this flood will come about.

**Mr. Makarchuk:** I'm indulging in a little bit of mythology advocated by some people around here.

**Mr. deKlerk:** Accepting it for the moment, I think those new buildings would have to come under review some way or another as well. Precisely how that would come about, I'm not prepared to say at this point. We are asking ourselves those questions and this is one of the things we'd like to come back to later.

**Mr. Makarchuk:** What you're saying is that there is no way we can do away with rent review or rent controls at this time, as horrible or as inefficient as it may be. But we have to have them in order to prevent some very serious hardships to the tenants.

**Mr. deKlerk:** Yes. It goes a bit further than that. In principle, people are saying rent review should be discontinued because it's a horrible program. That's like saying: "Let's burn down the OHC because it's horrible housing." It doesn't answer the question of how we can improve this program to make it more effective; and I think the improvements are fairly simple. The program needn't be horrible. It could be a very good program and, I think, it's just a matter of having one hearing per building per year. It would substantially cut the cost of this kind of program, I would say.

**Mr. Makarchuk:** That's not the argument. The basic argument here is a matter of principle. It's whether we have rent controls or we don't have rent controls. That is the real battle.

**Mr. deKlerk:** If that is the real battle, if it's a battle of principle of whether or not

the government, on behalf of the people, should interfere in this kind of a situation, then I think we have to say: "Okay, if that's the position that people want to advocate, then let's have some integrity in maintaining that position," because government interference takes place on all kinds of levels. For example, the government makes zoning regulations. Are those people advocating that there be no zoning regulations? Are those people advocating that we have no rent supplement program, that we sell OHC to the highest bidder? Is that the kind of thing we want? I don't think that it's realistic to take that kind of position, and I don't think anyone would seriously advocate it but at a certain point it becomes convenient.

**Mr. Makarchuk:** You have the Minister of Housing (Mr. Bennett) here.

**Mr. Warner:** A minister without housing.

**Hon. Mr. Grossman:** Be nice to your guests.

**Mr. Duktzta:** Why?

**Mr. deKlerk:** I think people are saying let's cut our rent review because it interferes, but they're not saying cut out the government incentive programs, which is also a way of the government to interfere with the private market.

**Mr. Makarchuk:** We may realize it but it's not everybody who is saying it.

**Mr. deKlerk:** No, I understand that. I understand that quite well. But for the people who are saying that—and I think for this committee—it's important to be consistent. If we're going to say: "There's not going to be any intervention. Rent review isn't a legitimate thing to be doing," then let's get right out of the whole intervention; because I think those programs do tie together. The development industry, for example, is saying that it can't have rent review because it inhibits profits but then say rent supplements and all the incentive programs are needed, otherwise, it won't build. I just think that there's a real lack of integrity in that kind of a position.

**Mr. Makarchuk:** What they're saying is that if they do build, they'll build at today's costs, which is not going to resolve your problems.

**Mr. deKlerk:** That's right.

**Mr. Samis:** I just have one question. Mac pretty well sliced all the meat from it. There's just a morsel or two left, quite frankly.

On page five, near the bottom you say: "If the provincial government is not prepared to commit itself to an expensive involvement in the provision of rental accom-



modation then it must commit itself to permanent rent control."

Sympathizing with many of the things you've said in your presentation, and agreeing with most of your objectives, but realizing the nature of the economy that we have, realizing that the man next door doesn't agree with most of what you say—and he runs the government—I'm just interested in your economic rationale—and I emphasize "economic" rationale—for rent review on a permanent basis. I would like to ask you if permanent really means permanent, and what you would see as the economic purpose of permanent rent control as opposed to rent review or anything of that sort.

[2:30]

**Mr. de Klerk:** The difference between rent control and rent review is that rent review allows for a graduated increase in rents from time to time based on increased operating costs, and there is a hearing to determine exactly what you will get. Control says: "This is the rent." That's the beginning and end of it, and there is no question asked and there is no exception. So what we are saying is that if the government is not prepared to undertake an extensive program that will get us out of the housing problems as they are now—

**Mr. Samis:** And the reality of politics is that they are not.

**Mr. deKlerk:** —and if we're not going to have more housing, enough for everyone, and controls—

**Mr. Makarchuk:** It's not a case of more housing, it's affordable housing.

**Mr. Samis:** More affordable housing.

**Mr. Makarchuk:** More affordable housing, yes.

**Mr. deKlerk:** More, right.

If housing cannot be provided for the people of this province in a way that they can live there comfortably, then it seems to me that the government has to say that for those people who are living there, we are at least going to put on a very strict and permanent control; and permanent, I think, is related to the unit and it means that until there is at least a change in the situation that program has to continue.

**Mr. Samis:** From your perspective, what is the economic objective of that permanency? I can see where you would want to protect people from being ripped off if that situation continues, and it is quite likely that it will. What do you want rent review to accomplish beyond that? Or, is that the prime purpose of its continuation?

**Mr. deKlerk:** I think it's, one, in your perspective, to prevent people from getting ripped off and, I think, two, it's to bring some rationale—I would use the word rationale because I think there is no rationale, at least, not an acceptable rationale in housing right now—so that there is at least a basis for the rent being charged. I think that in many units right now, there is no basis other than what the landlord is able to get, at least, prior to rent review.

**Mr. Makarchuk:** The basis for the rents charged: If you build at today's costs—whatever today's land costs are, particularly if you are building somewhere in the centre of Toronto and are buying land or buying houses, demolishing them, putting up apartments—do you think your tenants can afford the economic rents plus anything else on top of that?

**Mr. deKlerk:** I think that here it's not particularly helpful to look at the final cost of construction and, therefore, the rent. It's not particularly meaningful to have a housing program that isn't accompanied by a land banking program. If you can finally put up an apartment for \$15,000 per unit but are paying \$45,000 per unit for the land, you are not any further ahead. That has to be a part of it as well and, it seems to me you also have to begin to do something about the market because the market situation reflects those years when people were making a lot of money. And it was that which drove the prices up. Perhaps if the opportunity to make so much money out of housing is no longer there, that will bring the prices down again.

**Mr. Samis:** Tell me if I am misinterpreting you. You see the long-term role of rent control or rent review—whatever you are going to have—as a means of redressing any imbalances in the marketplace and interpersonal relations between the landlord and the tenant; and that, on a continuing basis, is its main purpose in society. Is that right?

**Mr. deKlerk:** I think a controlling of the rents isn't going to resolve the problems of the personality conflicts that exist between landlords and tenants.

**Mr. Samis:** There's an economic and there's an interpersonal aspect. If it's to continue, can you just share with us your ideas—whether it's going to be, let's say, review as opposed to control? Do you have any strong opinions beyond the overall concept of the RTC that you have outlined here? I ask you that in the context of what has been done in any other province. What form would you like it to continue, assuming that the present imbalance in housing continues and assuming



that the man next door continues to get his way in terms of his philosophy of government, and it looks very likely that he will?

**Mr. deKlerk:** What we would like to see then, if there isn't a substantial change in the situation, and I think that's what you are suggesting—I don't think it's reasonable to begin to consider establishing fair rent criteria into what people are paying; that would be a fairly substantial undertaking—is, and I think it's the least that has to be done, to carve down the reasons for which rent increases can be given.

I don't think there are too many tenants who would object to paying a rent increase if there is a hydro increase, or if the superintendent gets an increase in pay. I don't think there are too many tenants who would object to that as long as the superintendent is doing his job. Where people begin to object is when they are given rent increases for things they don't believe really happen. So if the landlord comes in with a promise to do all kinds of major repairs, tenants don't trust their landlords in many instances and don't think it will happen.

There's reason for that. Some landlords are honest, and God bless them, but what we have to do is to allow a rent increase based on things we can be sure of, and only those things. If the landlord spends more, if it costs him more, then we say, "Okay, come back after you have spent the money and we'll make the arrangements."

**Mr. Samis:** As we look ahead, how do you feel about the idea that there should be a set rate, or is it to be left totally to the discretion of the RTC on the individual contacts?

**Mr. deKlerk:** One of the things that I personally think could come about is that we recognize that things are perhaps different in Toronto than they are in North Bay. For example, Toronto this year is going to have a fairly low increase in taxes. Taxes are one of the more substantial factors in granting rent increases. Let's say the situation is quite different in North Bay, perhaps the guidelines should be different in North Bay than they are in Toronto. That sort of thing is not that difficult to determine.

I think there should be a guideline. I think it should be fixed annually; I think if there are going to be any regional adjustments, that's an obvious place to do it. It's the same with some of the utilities. The increases are going to be different for those utilities. What we are saying is, "Yes, there should be a guideline struck every year, but perhaps the guideline should reflect the situa-

tion in various municipalities throughout the province."

**Mr. Samis:** I would take it, then, you do not favour the system that's been in operation in Quebec, where there is some alternative but no fixed figure whatsoever on a provincial basis, leaving out the whole question of landlord-tenant relations?

**Mr. deKlerk:** It seems to me the biggest problem with the situation in Quebec is that it is not a compulsory thing and basically it relies on tenant initiative. We're not happy with that. We feel that if the landlord wants an increase, he should justify it.

**Mr. Samis:** I realize the basis of responsibility in Quebec falls on the tenant. Do I take it you would reject that concept of rent review where there is no set figure, that it is left on an individual discretionary basis to the rental commissioner, whatever you are going to call him, or the RTC group or board, and that they decide on an individual basis or cases with internal guidelines?

**Mr. deKlerk:** Yes. There should be a guideline.

**Mr. Samis:** You would reject the Quebec premise of no set figure across the province, is that right?

**Mr. deKlerk:** The problem is that if you don't have a set figure, who is going to make the application?

**Mr. Samis:** So you would favour some figure, whether it is four, six, eight or 10 per cent?

**Mr. deKlerk:** Right, and that could vary from year to year. You know, six per cent in the city of Toronto this year is too much. In North York, it might not be.

**Mr. Samis:** Is it fair to say, in summing up, that you would see the main economic—I emphasize—value of rent control is that it would regularize the process, it would lay down the ground rules, it would ensure protection for both sides, and it would somehow arbitrate a fair and just return, profit and/or rent in the whole process?

**Mr. deKlerk:** I would agree with you up to the last point. I don't think it would arbitrate the profit. I think the profit is built in. It's built into the rent already. As I said earlier, just in the way that the mortgage payments are made, if you have a normal mortgage with blended principal and interest payments, then you are effectively building in a return on investment that increases every year. The landlord is not paying for that, the tenants are paying for that.

Let's say that originally you put in 15 per cent; then as your equity increases, that is a return on your investment. I think landlords would often have us think that their investment is the amount of equity they have in it. That's not their investment; it's the tenants' investment that the landlord has extracted from him.

It has to be understood that tenants are providing a landlord, under normal circumstances, with a return on investment. If the landlord then sells it, even for the same price, and if by the time he sells it he has increased his equity from 15 to 25 per cent, that is a capital gain of 66⅔ per cent.

**Mr. Samis:** Can I ask you a final question: Have you done any studies or looked at the rent review legislation in the other provinces?

**Mr. Duksza:** You should stay, Claude. You may learn something.

**Hon. Mr. Bennett:** Not from what I have heard so far.

**Mr. Samis:** It's sad, Mr. Chairman, that the minister's mind is so closed and his attention span so limited.

Could I just ask you, though, since we're studying the whole question of rent review and landlord-tenant relations, are there any recommendations based on any of the experiences of any of the other provinces that you would like to see incorporated in Ontario, whether it be rent review or landlord-tenant relations?

**Mr. deKlerk:** I know that in Manitoba, for example, they have had as policy that no financing payments are considered at all as part of the rent review. That is one area we have borrowed from. The BC rent review legislation, as far as we're concerned, is not an improvement on what we have right now. They have a Rentalsman there who deals with landlord-tenant problems and basically the courts are not too involved. That's something that we are relying on, too, and the green paper spends quite a bit of time on that as well.

We don't think it should be one individual, we think it should be a tribunal that would deal with those problems, particularly since there's not really an appeal. I think it's very dangerous to set up a system where you have one person who adjudicates and there are no appeals, except to high courts, which are very expensive. That's why we recommend a tribunal as opposed to an individual.

The way the appeal is set up right now in rent review, I don't think is particularly helpful except that in appeal you have two members who are sitting rather than one. That's an improvement, but it's a hearing de

novo, so everything is up for grabs again, and that really has the effect of not making it an appeal but just another hearing. We go heavy on suggesting that there be a tribunal rather than just the Rentalsman, as it is in BC.

On the amendments to the Landlord and Tenant Act, we did refer to the BC thing there where the landlord, if he's asking the tenant to move because of something he wants to do, is going to have to compensate the tenant for that. I don't think that's unfair.

**Mr. Samis:** So those would be the three main aspects of other jurisdictions you would call to our attention, then.

[2:45]

**Mr. deKlerk:** Yes, that's correct.

**Mr. Chairman:** If I may just ask Mr. deKlerk a question, you said you thought a six per cent rent increase in the city of Toronto this year would be likely too high. What I would like to get clear is, does that reflect the view you expressed earlier that you thought property tax increases were, I think you said, the highest determinant in a justified rent increase?

**Mr. deKlerk:** Yes, they are one of the largest factors. Unless you go to a building that's heated electrically, property taxes are the major operating cost component.

**Mr. Chairman:** That surprises me. Does your association have any tables on that?

**Mr. deKlerk:** You could get those very easily from the rent review program. They would have it from actual cases that they have dealt with.

**Mr. Chairman:** Is that why you said six per cent this year in the city of Toronto, because of the lower anticipated property tax?

**Mr. deKlerk:** Yes, right. Taxes are generally around one-third of the revenue. That's a peculiar way of putting things. It's a cost as a percentage of revenue. That will vary somewhat on your margin of profit.

**Mr. Chairman:** I find that very surprising.

**Mr. deKlerk:** What that means is that a three per cent increase in property taxes should result in a one per cent increase in rent. If you have a nine per cent increase in property taxes, then you can figure on a three per cent increase in rent just due to that.

**Mr. Chairman:** You mentioned earlier the market value, or whatever your expression was, of a two-bedroom apartment was about \$260. You thought that was low, but three

per cent of that, it still seems to me, is negligible in terms of gross revenue.

**Mr. deKlerk:** Yes, but that's only one of the factors. What I'm saying is that if you add up all the others, six per cent in the city is too high at this point, because it won't come up to six per cent. If eight per cent is a realistic figure, then your total will probably come to around four and a half to five per cent. So if a landlord takes the six per cent increase, he's increasing his profit.

**Mr. Breithaupt:** I was interested in your rollback provisions. How would you ensure that those were kept current if that kind of a program was available, so that if presumptions of six per cent or seven per cent for a certain category in fact turned out to be four per cent, how could that be translated back into a saving for the tenant? How did you get the thing moving quickly enough to benefit that tenant as soon as possible?

**Mr. deKlerk:** That is difficult, because as long as tenants are moving you can't always get it to them. It's like the hydro rebate—if you don't use hydro any more you don't benefit from it. It would be made a lot simpler if all the units in the building are heard at the same time, so that you only had to do it once. Right now they're doing sometimes three or four or five different margin adjustments and that's just a lot of extra work.

If, in October, you grant a rent increase effective January 1, based on certain considerations, then throughout the next 12 months you find that your projections were varied in the following ways, then when the landlord comes back the following October you say, "Okay, last year we gave you too much or didn't give you enough revenue to cover your increased costs, so this year, based on cost increases this year, our projected ones, we will make an adjustment on the basis of what we didn't do right last year."

**Mr. Breithaupt:** So that payments are not likely to go exactly back to tenants, but rather consideration is going to be taken in—

**Mr. deKlerk:** Future rent increases.

**Mr. Breithaupt:** —for the next year's group, who will likely be substantially the same persons.

**Mr. deKlerk:** Right.

**Mr. Duksza:** I am somewhat concerned that so few members of the committee are present here. **Mr. Breithaupt,** I do think that the next time it should happen that the Liberals set up a meeting—even if it's an

informational meeting — while the hearings are on, specifically when we will be hearing the presentation from a major tenant group—

**Mr. Breithaupt:** I believe our meeting was at 3 and yours at 4.

**Mr. Makarchuk:** Our meeting's at 3.

**Mr. Breithaupt:** You're at 3, are you?

**Mr. Makarchuk:** Yes, but we have our four people here.

**Mr. Breithaupt:** That's very good.

**Mr. Duksza:** I want to point out that from the Conservatives we have the chairman, Mr. Belanger—and Mr. Gordon Smith, who is always here, but no one else from the Liberals, and yet they have, I think, six or seven members—

**Mr. Warner:** Seven.

**Mr. Duksza:** —on this committee, while we are here in full bloom.

**Mr. Breithaupt:** It's wonderful to see you all.

**Mr. Duksza:** It's nice of you to say it. Since you act this way, I see only you as a representative of the Liberals. Presumably, of course, you will read all this stuff later.

**Mr. Samis:** If we could only have Earl here, eh?

**Mr. Duksza:** Well, we could always have a quorum call, which I'm not going to call right now. I also dislike the idea of Mr. Bennett just coming in for five minutes to listen and then saying—ah, welcome, Mrs. Scrivener, a new addition.

Let me ask a couple of questions, Mr. deKlerk. One thing which interested me was your point that at the moment the six per cent increase which is allowable for rents per year in effect allows not only what is a permissible profit on investment, but in fact a capital gain. You used an interesting figure that I didn't quite follow, that this was continuous on the properties which have been paid off and where there is no remortgaging. In effect, it's a large and extensive capital accumulation which comes straight from the pockets of the tenants.

**Mr. de Klerk:** I'm not sure I understand you exactly.

**Mr. Duksza:** I wanted you to elaborate on that point that you made, and let me just restate this. If the property has been paid off, then any six per cent increase on rent, if the costs are only about four and a half per cent, allows a capital accumulation which comes straight from the pockets of the people who live there. You suggested very strongly that this is unconscionable,



and that if you consider housing not as simply a productive machine but as productive plus a social need, it should not be in that sense allowed and we should take this into account in deciding the increase may have to be rolled back. That was picked up on by Mr. Breithaupt, and I'm picking up on it again. Can you elaborate on that point and the point which I brought up that the increase in capital may come to very large figures?

**Mr. deKlerk:** I think the intention of the program was to allow rent increases based on actual cost increases, and that there would not be any consideration for increasing profits, and only if there was some financial loss would the program give any consideration to rent increases other than for operating costs. In all of that, I think the idea is this: The profits are there; we're not going to roll those back for the time being. We're going to restrict them. We're essentially going to put a freeze on the profits.

The program has found a number of very interesting ways of getting around that, and I think each one of those is an effective way of putting more money than is warranted into the landlord's pocket. The first way is by allowing the landlord to have an increase in rent up to a guideline level, which guideline is too high. When the landlord increases the rent up to the guideline and his costs don't reflect that kind of an increase, then he is getting more revenue than his expenses are going up and he's increasing his profits.

Because landlords don't have to indicate what their profits are, it's very difficult to figure out exactly what size or how much in dollar terms that particular aspect of it is. Also, those people who collect the guidelines don't come to rent review, so you really can't get hold of the information. But I know in a couple of instances where, say, last year the landlord didn't come to rent review and this year he did, if you look back at his cost increases—because you have to give them for three consecutive years—you can see that his costs were justified.

You have to do a bit of projection because you have to assume what his revenue was the year before. He got eight per cent, so you can calculate approximately what his revenue was the year before, but his costs as he shows them would justify only perhaps a five or four per cent rent increase but he got eight. So that is a bit of a windfall. A four per cent revenue increase is a substantial increase.

**Mr. Duksza:** Both Miss Hogan and Mr. Batchelor last Wednesday mentioned that on

their appeals they allowed the financial pass-through. In fact, built right into the Act now, that provision which allows refinancing and interest passes through the courts to the tenants.

**Mr. deKlerk:** What I have been referring to now only deals specifically with operating-cost passthroughs. Then there is the whole thing on finance.

**Mr. Duksza:** I know. I am quite aware that we were talking on quite different things, but there is this other aspect that is of greater concern to me even than dealing with the inflexibility of an increase of six per cent per year.

**Mr. deKlerk:** There are a number of aspects to the financial costs or allowances that are of concern to us. The first one is that when the landlord calculates his financial loss, he is allowed to include his principal repayments. It really is quite contrary to most accounting principles, and certainly to generally accepted accounting principles, to consider an investment or payment of capital as an operating cost in calculating financial loss. It is just unheard of.

**Mr. Duksza:** It may be unheard of, Mr. deKlerk, but it works for the benefit of landlords.

**Mr. deKlerk:** It does, it works very much to the benefit of landlords. I was advised by a member of the Canadian Institute of Chartered Accountants who gave a seminar to a number of people who have been working with rent review and related things, that that institute had instructed its members that for various reasons, including this capital principal repayment thing, they should not be signing the declaration that appears on the cost revenue statement that landlords have to submit, because it wasn't in accordance with generally accepted accounting principles.

That is just one example where the landlords have been able to take advantage of the rent review program to allow them to increase their profits. Principal repayments are considered when you are calculating the financial loss. That to me is the smallest improvement that should be made.

Then there is the whole question of their financial loss; whether there is in fact a financial loss. If the landlord can show a negative cash flow on a building—in other words, he is receiving, let's say, a million dollars revenue and he is paying out \$1.2 million, which shows a negative cash flow of \$200,000, that doesn't mean he has a financial loss of \$200,000, because it could very well be that he is writing that loss off as a tax credit on another building.

But rent review won't look at that. So on the one hand he is getting a substantial rent increase for that; on the other hand, he is getting a tax credit for the same thing. That's double accounting, as far as I can see; but as I said, rent review won't look at that sort of thing.

**Mr. Dukszta:** Before I forget that point, when there is such a significant loss declared by the landlord, is there no way of checking whether it is for this building or for others?

**Mr. deKlerk:** No, it is not a question of whether there is a negative cash flow. You can relate the expenses to that particular building and they are there. It is fairly obvious; he pays so much in interest on his mortgage, so much in principal, so much in taxes, utilities, et cetera. You can add it up and when you put that against his revenue, his expenses are greater than his revenue.

What I'm saying is that that doesn't necessarily mean it is a financial loss. But when rent review does its calculations, that's what it deems to be a financial loss. So they equate negative cash flow on a particular building with financial loss for that building and they award the increase on that basis.

[3:00]

**Mr. Dukszta:** Yes, it's very clear. I want to return to just one more question and then you can go ahead, Brian. I was questioning you on this before the luncheon break, and I don't really want to hear any more details of the federation. I think you gave me enough evidence to show that this is a large organization which significantly represents the majority of tenants in the Metro area.

A number of things have been coming up recently in terms of what tenants say in some of the criticism of the rent review legislation. Some people have made two points. One is that all we need is a rent supplement for some, and then if we also manage not to subsidize the very rich people, we don't in effect need a rent review program. I want your comments on it, from your perspective of being much more in contact with the tenants directly than I am, but my own experience is that there is only a very small group—always a small group—which will always need a rent supplement program, and on the other end of the scale we are not extensively subsidizing the over-rich people. In effect, therefore, the greatest number and percentage of tenants in the Metro area are ordinary working people who are approaching close to 25 per cent of their income which they now have to spend on rent.

**Mr. deKlerk:** The first thing about the rent supplement program is that it's not avail-

able to everyone. It's available only to a very small percentage of the population. It's really a program within the Ontario Housing Corporation. Most of the money, as I understand rent supplement, probably is channeled into tenants living in non-profit and/or co-operative housing. That itself is a very small percentage of the total population. Even within those projects not more than 50 per cent of the units can be rent-supplementable. That's 50 per cent of a very small portion of the population that is even eligible for it.

Many don't have 50 per cent; some only have 25 per cent.

There is also a part of the program whereby OHC pays directly to private landlords to place people on their waiting lists in these other projects. I suppose the reason for that is that they don't want to ghettoize, or put in one small area a number of people who are on socialized housing. I think that's a good goal to plan for. Again, the number of people involved in that is very small.

**Mr. Dukszta:** To return to the central part of my question, would you agree that most people in Metro Toronto are ordinary working people? If so, rent review is a necessity for the great majority of people in Metro, and for that matter in Ontario.

**Mr. deKlerk:** If you consider that over 50 per cent of the people in Metropolitan Toronto are tenants, and that historically, if they could afford it, most people would buy their own home, you're looking at a number of people who by and large are in the lower part of the income scale, since if they could afford to buy a home many of them would. They can't afford to, so they are tenants.

You're also looking at half the population of Metropolitan Toronto. In Ontario, probably between 40 and 55 per cent of the population are tenants. You're looking at a sector of the population which is not able, by and large, to afford to buy a home and which constitutes over half the total population.

What kind of people are they? They are going to be ordinary working people who are probably making just a little bit over the minimum wage, and those people are spending an increasingly large proportion of their incomes on rent. Perhaps it would be good to have the figures, to have a breakdown. We've got a breakdown of 80 per cent of the population who spend less than 25 per cent of their income on rent. So 20 per cent pay more than 25 per cent of their income.

Perhaps it would be helpful to have a further breakdown of that information. How many are paying between 20 and 25? I think there are quite a few and those people are



right on the borderline. That would give us a much better idea of how things are deteriorating, how people are paying more and more of their incomes on rent, and more and more people are on the verge of paying that quarter of their income on rent.

**Mr. Chairman:** Could I just interrupt for a moment? Do you think that such figures exist; and if so where could we get them in table form?

**Mr. deKlerk:** I am sure they exist because people are getting the percentages from somewhere, and I don't think that is original research. I know, for example, the Social Planning Council a few years ago did a study called *The Rent Race* which detailed the costs, the percentages of income that people were paying.

**Mr. Breithaupt:** It might be that the Bureau of Municipal Research would be another source of some current studies on that. That might be worth inquiring into.

**Mr. deKlerk:** The Ontario Welfare Council or social planning council would have that kind of information too.

**Mr. Chairman:** Where were we on the list? David has gone. My God, these NDPs are falling off like leaves, Brian has gone. Mac has gone. This is terrible. Mr. Duksza, how do you account for this shoddy behaviour in your caucus?

**Mr. Duksza:** There are two NDP members here, one Liberal—

**Mr. Breithaupt:** More than enough.

**Mr. Duksza:** —three Conservatives.

**Mr. Breithaupt:** Moving right along.

**Mr. G. E. Smith:** I may have missed this, and I apologize if it was asked and answered before I got back from lunch: Should the government declare a fair rate of return or set a percentage return that would be uniform across the province?

**Mr. deKlerk:** The difficulty I have with that particular concept is that you have to determine what the return is going to be on. I would object to anything other than the return on the original equity.

**Mr. Breithaupt:** Not a return on the market value?

**Mr. deKlerk:** No way.

**Mr. Breithaupt:** On what it is now?

**Mr. deKlerk:** Right. The return would have to be on the original equity, because apart from the original equity the landlord didn't really put anything else in. In all fairness, the tenants are paying the principal in their rent and that is not the landlord's costs.

**Mr. Breithaupt:** You would include any principal portion in what would be equated as part of "the fair return"; that is the landlord says: "I could put that money in the bank and get eight per cent." You are saying: "Fine, but if that would be the return, you would also have to include a relationship with any principal that is being paid off as well."

**Mr. deKlerk:** Accrued.

So if, for example, the landlord initially put \$100,000 into a building and mortgaged the rest, and let's say we would allow a 10 per cent return on investment, he could then expect \$10,000 annually as a return on his investment. If that is the kind of calculation that we are going to get into, then you really can't allow him to repay any of his principal or to have the tenants repay his principal, because that is building up his equity; and that is, in effect, a return on his investment. So what I say is that it is much easier to simply say: "Okay, you set up your mortgaging the way you want it. It's obviously to your advantage to get your blended payments over so many years. In the end you will be increasing your equity every year. The first year it may be minimal; but you are looking forward in a number of years to that increasing incredibly, and when you pay your mortgage off—for example, assume that you have 90 per cent financing at the beginning, by the end you will have gotten a 100 per cent return on your investment, because you've paid the whole thing off, plus you have your capital gain of another 100 per cent if you sell it.

**Mr. Breithaupt:** You divide the servicing portion for the mortgage as such, from what you consider should be an adequate bank interest or return on the moneys invested?

**Mr. deKlerk:** Right.

**Mr. Breithaupt:** And the capital gain being the third factor. Perhaps some day later on, of course, there's something else.

**Mr. G. E. Smith:** Assuming you're agreeing with what Jim just said and assuming that we are only considering mortgage interest—exclude any capital payments, like mortgage payments, being blended—what would you think would be a fair percentage of return on actual operating costs? You had mentioned maybe a 10 per cent return on investment.

**Mr. deKlerk:** Tenants are now given six per cent on their last month's rent.

**Mr. Breithaupt:** To supplement that point, you also have to look at the equivalent opportunities for investment. It may be that tenants should receive more; but putting that



aside, if a guaranteed investment certificate, shall we say—with no trouble or concern other than an envelope to open every month—brings in 10 per cent, some equivalent return is a reasonable expectation for the landlord as investor, one would think.

**Mr. deKlerk:** Yes, I think that is a possibility.

**Mr. Breithaupt:** Probably that tenant too should get an equivalent rate on the last month's rent.

**Mr. deKlerk:** What we're concerned about, I think, is that when you're talking about housing and trying to develop a housing program, you get into developing a scheme that will be attractive to all the developers. It reminds me of the situation when I was much younger and lived out west. I lived in a small town that was bending over backwards in trying to attract industry. What happened was a lot of cut-throat activities went on between the small towns. One would say to the industry, "If you locate here, we'll give you free taxes for X number of years." The next town would say, "Well, we'll give it to you for X plus five"; and so on and so forth. The industries started setting one off against the other. No one really benefited by that.

That's what I'm concerned about. We don't want to get into a situation where, if we say: "We'll give you 10 per cent," the developers then go to some other jurisdiction and say, "We can get 10 per cent there, will you give us 11?" You get into a lot of what is really unnecessary discussion. If we can say, "Okay, these are the rules for building it. You figure out in the long term whether you can build under those circumstances. If you can't, okay; put it into saving certificates or whatever." And maybe then the government should say, "We will borrow money from those certificates and we'll pay a certain amount. We will get into construction because it has to be done."

The other thing that I think is of concern, and we mentioned it somewhat this morning, is that even if you guarantee these people a 10 per cent return on their investment they may build one building but the profits they make aren't necessarily going to go back into housing. I think that's the concern that we have, that there be some long-term commitment to construction. A guarantee of profit doesn't bring that commitment.

[3:15]

**Mr. Breithaupt:** But to have from a developer the guarantee that profits from that line will be used only for housing, is quite

different to the overview of a person who has some capital for investment and who has some choice. How would you justify the requirement that once you are in housing you must always use the profit from a project for more housing, when the system doesn't require that if you are in some other industry or some other program?

**Mr. deKlerk:** No, you obviously can't do that; and I think you couldn't effectively require that either. I think that brings us to another pitfall in the whole thing. Effectively, in order to attract the investment into housing, you have to be able to guarantee those people the same rate of return as they could get anywhere else. So you are competing with penny stocks, mining and all that sort of thing; and I just don't think that housing can cope with that kind of competition.

**Mr. Breithaupt:** That's a good point, yes.

**Mr. deKlerk:** I simply don't think we are in a position to pay those kinds of costs in housing.

**Mr. Breithaupt:** Not in a market that has so much choice for investment.

**Mr. deKlerk:** Maybe we are giving too many profits in other areas as well.

**Mr. Breithaupt:** Maybe.

**Mr. Chairman:** Any further question?

**Mr. G. E. Smith:** I think there was some reference made by yourself and by some of the committee members that a normal return on investment should be allowed. Do you foresee, then, that it would be acceptable to society or to the tenants—and I am a tenant, incidentally—to assess or establish what that normal return might be, whether it's five per cent or whatever it might be, and then add on any of the legitimate costs? And I say legitimate in its legitimate sense. We have pointed out how there are fictitious costs or costs that aren't related to the building, whether they be taxes, hydro, legitimate repairs or whatever it might be. Do you think this is the sort of system that really would work?

**Mr. deKlerk:** We are advocating an adjustment in the present system. The present system doesn't make any allowance for a profit at all, it simply stays away from it. I think that that's probably a wise thing to do because if you get into making adjustments, or if you start considering fair return, then there are going to be people whose rent is going to go from \$260 down to \$110 simply because the landlord doesn't have any mortgage costs.

**Mr. Breithaupt:** But what is a fair return on the alternate use of capital which could be invested? Just to leave it out is easier, that's true, but is that fair?

**Mr. deKlerk:** I don't think that it's fair in terms of the general situation where you have many tenants who are renting and who have been renting for some time. If they happen to be living in a certain place at a certain time, and you start calculating fair rent, suddenly they start paying \$295 for a one-bedroom and someone else who happens to live in an older building suddenly pays \$115 for a three-bedroom. I think that there's some inequity there. Fair rent also has to take into consideration that just because they aren't all old buildings that have never been sold—you have to take into consideration that you can't—

**Mr. Breithaupt:** You just can't fragment the market that way.

**Mr. deKlerk:** That's right; not everyone can live in those kind of buildings. It's equally not fair to have people paying such different rents. It's very conceivable that people who are living in, let's say quasi-luxury apartments, could, if you made a fair return, be paying much less in that particular apartment. So when you are talking about fair rent I think you have to consider people's ability to pay. Maybe—and this, I think, would probably be an administrative nightmare—you might have to start saying: "We are going to collect 25 per cent of everyone's income and use that as a housing thing, and then redistribute the whole thing to everyone." That is a bit of a complex thing.

**Mr. Breithaupt:** It may have a few complexities, yes.

**Mr. deKlerk:** That is the kind of thing you have to get into if you are going to start talking about fair return. I think it is much more simple to say we are not going to get into that discussion and we are simply not going to allow any considerations if you are losing money, because eventually you are paying your principal off and you are getting it back that way.

**Mr. Chairman:** I have one last question and then we have a couple of internal things that we want to talk about. You said in your written brief that until such time as there was a sufficient quantity of decent affordable housing in Ontario it is incumbent upon the government to protect tenants. A two-part question: How do you determine when there is adequate, decent affordable housing, and who would make that determination?

The first part of the question really gets to is there a measure other than vacancy rate that you can think of; and in the second part, how would you, for example, judge when we are in that position that there is sufficient adequate, decent, affordable housing?

**Mr. deKlerk:** I think vacancy rate, first of all, is not sufficient, because you could have a five per cent vacancy rate and you wouldn't necessarily have decent housing. I think that is as important to people as the rent they are paying. A comment that I hear often is, "I wouldn't mind paying the increase if the landlord would do the repairs." It would be a very difficult thing to make the judgement that we are out of the housing crisis, I think it is going to have to be that kind of a nebulous judgement.

**Mr. Duksza:** Is it easier to perceive housing as a social need? It is maybe like the way we finally made a decision that health care should not be a productive sector but should be a social service; maybe we should begin to perceive housing as a major social need for people and then the usual market things would no longer operate to such a degree in the market. **One point you made** which is very interesting is that some rents would be so much less in older buildings than it would be in newly-built buildings. Let us remember that some of the expensive rents that we pay for the development are due to excessive profits in land and speculation, et cetera, and that should not be a passthrough.

**Mr. deKlerk:** I think what Mr. Duksza said is important. I think it is important to begin to realize that insufficient and inadequate housing has tremendous social costs and that those kind of things are also being paid for by the government, in terms of welfare and all kinds of other things; family courts.

I don't think we really realize the extent to which inadequate housing causes social problems. I won't comment too much on that, but that is one of the factors that should lead us to think more about housing as one of those utility things—and utility is not really the right word. I wouldn't want it run like Ontario Hydro, or maybe even OHIP, I don't know. We have to think of it not simply like a pair of shoes that you can go out and buy when the other ones are worn out.

Apart from that major shift in public opinion, and maybe even government opinion, I think we have to constantly make ourselves aware of the situation and keep in touch with



it. I think that kind of constant presentation to the government and other people and organizations by community associations and social service organizations finally brought the government to the position that it was prepared to recognize that there was a housing crisis.

It wasn't because at some point statistically someone said there's only 0.8 vacancy rate or that 73 per cent of the people were paying X per cent of their income on rent. It wasn't that kind of clear statistic. It was a general awareness and consensus that yes, we have a real problem that we're going to have to deal with. I think it's going to have to be the same kind of consensus that brings an acknowledgement that we've overcome a problem.

**Mr. Chairman:** Thank you very much. You've been a big help today and we'll likely be seeing and hearing from you again.

**Mr. deKlerk:** Could I just say one thing? If at any time you feel you would like to ask us any more questions about either our presentation or to comment on other ones we would be more than happy to make ourselves available to you.

**Mr. Chairman:** In the few minutes remaining, if we can let's speak to this business of travelling. Should the committee split itself up into three, as was suggested last Wednesday, and head off to three centres—they were suggested as being Sudbury, Kingston and London—for one day, a Wednesday, of hearings? If we are going to do that, if we could decide it today, all the better. We could pick the date and then we would have to advertise in those areas.

**Mr. Duksza:** Yes, I would urge that we take one day and split up; and we must get someone to record us too at the same time, but I would say that it shouldn't be Sudbury, Kingston and London, but it should be maybe Thunder Bay, Windsor and Ottawa actually. They're the biggest centres.

**Mr. Breithaupt:** George Samis had suggested Kingston because that was readily accessible to a wider area. It was accessible more to the Oshawa area or along the—

**Mr. Duksza:** I was going to give you my reasons: Sudbury is not exactly close to Toronto, but if we are going to hope to hear from the west part of Ontario, then Thunder Bay is really the most ideal.

**Mr. Breithaupt:** There's a problem, because you can't get there. Again, that was mentioned—I don't know by whom but it was—that you have to go the night before and you can't come back, because of the airline schedules, readily within the day.

**Mr. Foulds:** You can go up and down in a day, five flights a day.

**Mr. Duksza:** Hasn't Mr. Davis got a Lear-jet we could use?

**Mr. Breithaupt:** One of the northern members mentioned it, so I—

**Mr. Foulds:** You can leave at 8 in the morning from here, roughly—I think it's either 10 to or 10 after 8—and you can get your meeting started by 10.

**Mr. Breithaupt:** That's fine.

**Mr. Foulds:** You can leave Thunder Bay 7:10 at night and get back to Toronto.

**Mr. Breithaupt:** If we can do it, dandy.

**Mr. Duksza:** The reason I suggested not Kingston and London—that's open, really—it may be the type of problems that people have in Kingston, the presentation might be largely by students; if we go to Ottawa that's a very tenant and, for that matter, landlord oriented town, so it may be better. But it's open.

**Mr. Breithaupt:** The idea of splitting the committee into three groups did work quite practically last year when the company law committee did it in an automobile insurance interest. Various briefs were received and notes were simply made by the members which were then written up and distributed to all of the members of the committee. It seemed to work out satisfactorily.

**Mrs. Scrivener:** Mr. Chairman, during my association with the advisory task force on housing policy, it was our experience that whereas people who missed us in particular cities where we visited in the south of Ontario could get to us through very easy and normal transportation lines, it was the people in the north who felt the greatest hardship because of the distances they had to travel, and the whole matter of accessibility and economics. It seems to me if we are to go afield we should be thinking principally of the north. I would say Sudbury and Thunder Bay are very important.

**Mr. Breithaupt:** It is less of a burden to people in southern Ontario to get in touch, of course.

[3:30]

**Mrs. Scrivener:** Yes. I think it's easy for people in Ottawa to drive here. It's easy for others to take a train, or take a bus along Highway 401 and up and down that big artery. It's very difficult for the people in Kenora to get down here; or even, in some cases, to buy their tickets. If we're thinking of going afield we should be going where it's the most difficult for people to talk to us in any other circumstance.



**Mr. Breithaupt:** That's a good point.

**Mr. Foulds:** Ironically, Sudbury is closer than Ottawa, directly.

**Mrs. Scrivener:** In travel time, it's five hours to Ottawa and seven and a half to Sudbury.

**Mr. Foulds:** Oh, Martel makes it to Sudbury in three and a half hours. Those are good considerations though.

**Mr. Chairman:** How about Timmins and Thunder Bay?

**Mr. Breithaupt:** If there are particular concerns, I would think it would be worthwhile, for example, to talk to the member. As Jim Foulds says, he can tell us whether concerns in Thunder Bay are so different in pattern or because of location, and perhaps Elie Martel can comment on the Sudbury area. Are we going to see more of the same or are we going for a particular reason, for distance, to convenience the people who live there, but also, hopefully, to see a different kind of pattern from which we might learn?

**Mrs. Scrivener:** I think also, Mr. Chairman, we should be consulting the people who are involved in rent review at the present time, because I think the availability of rental stock and the degree of problems in these particular areas may also be a factor in determining our decision.

**Mr. Chairman:** Is it then the committee's wish that we think about this again? Shall we consult with members in some, at least, northern municipalities for starters, then talk to the rent review people? We are going to have to make a decision about this quickly.

**Mr. Dukszta:** Let's make a decision that we're going to go; then we will split ourselves into three groups and leave it on the one aspect, which is where we go.

**Mr. Chairman:** Fine, that makes sense, but it doesn't take away the urgency of it, though, because if we are going to go to Sudbury the gentleman who came all the way down here from North Bay and will be coming down next Wednesday from North Bay could wait and go to Sudbury in three weeks.

**Mr. Dukszta:** That's one of the reasons I want Thunder Bay and Ottawa.

**Mr. Breithaupt:** We can contact him and give him that alternative.

**Mr. Chairman:** True enough, but as the days go by the number of people we will have to contact or redirect is going to grow, I hope, at quite a rate.

**Mr. Breithaupt:** What are the dates?

**Mr. Chairman:** We only have—my God, five Wednesdays. There is an urgency about it which I didn't create but which the calendar creates. We have April 26, May 3, 10 and 17. Then there are the last two Wednesdays, May 24 and 31, when we're going to deal with landlord and tenant here in Toronto. So practically speaking, we're looking at May 10 and May 17.

**Mrs. Scrivener:** The reason being that on the first and the third we're telling everybody they can come at night.

**Mr. Dukszta:** How about May 17?

**Mr. Chairman:** So moved.

Agreed.

**Mr. Chairman:** Before we all rush away, we've agreed that the committee will split into three, we'll head out to three centres on May 17, but we still have to know, not now but quickly, where.

**Mr. G. E. Smith:** Mr. Chairman, I know you can't accommodate everybody. I may not be able to go on May 17, but I'm certain someone else can take my place.

**Mr. Breithaupt:** If we can have one from each of the caucuses in each of the places I think the principle is attended to.

**Mr. Dukszta:** One each will be enough, because we know they will be voting separately.

**Mr. Chairman:** So we must come back here Wednesday next, April 26, prepared, I would say, right at 10 o'clock, to make a final decision as to which centres, in order that we can decide where we will take out ads.

**Mr. Dukszta:** Why don't you do some consulting before then so we don't spend hours discussing it?

**Mr. Chairman:** Okay.

The committee adjourned at 3:35 p.m.

## SPEAKERS IN THIS ISSUE

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Bennett, Hon. C.; Minister of Housing (Ottawa South PC)  
Breithaupt, J. R. (Kitchener L)  
Duksza, J. (Parkdale NDP)  
Foulds, J. F. (Port Arthur NDP)  
Grossman, Hon. L.; Minister of Consumer and Commercial Relations  
(St. Andrew-St. Patrick PC)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Samis, G. (Cornwall NDP)  
Scrivener, M. (St. David PC)  
Smith, G. E. (Simcoe East PC)  
Warner, D. (Scarborough-Ellesmere NDP)

**Witnesses:**

Beck, E., President, North Bay and District Landlord Association  
deKlerk, J., Chairman, Federation of Metro Tenants Associations  
Szoboszloi, Z., Toronto







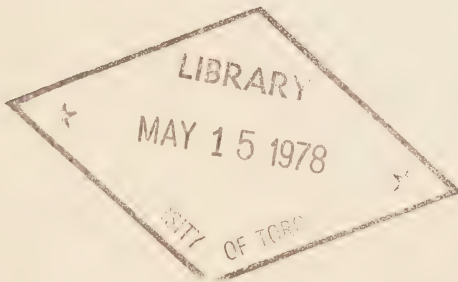


# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



**Second Session, 31st Parliament**

Wednesday, April 26, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

WEDNESDAY, APRIL 26, 1978

The committee met at 10:19 a.m.

### TENANT PROTECTION

(continued)

**Mr. Chairman:** If we could begin now—

**Mrs. Campbell:** Yes, at 10 o'clock we were all here, except the chairman.

**Mr. Chairman:** Mrs. Campbell, I know I can say this to you and you won't misunderstand me, we had a Metro caucus breakfast, and I say kindly that's a problem you are not up against.

**Mr. Breithaupt:** I suggest, Mr. Chairman, regarding the travel matters, that we defer those until 2 o'clock because we have a delegation and perhaps we should not keep them waiting.

**Mr. Chairman:** Is that agreed that at 2 o'clock this afternoon or some time thereafter, but not now, we will discuss the out-of-town procedures?

**Mr. Breithaupt:** So as not to inconvenience the delegates who are here.

**Mr. Chairman:** Agreed, Mr. Beck, if you would come up, sir. He was with us briefly last week. He is from North Bay, a landlord, and he requested an opportunity to come back.

**Mr. Beck:** Good morning, ladies and gentlemen, and thank you very much for letting me come back again. We have a few pages here but it's not very long. Besides that, I have brought in a few pictures I am sure the chairman would like to pass around once we get to them.

This is presented by the North Bay and District Landlord Association. We were formed approximately two months ago so that we might be of assistance to both landlords and tenants and to see that both parties fulfil their obligations. We have tenants who do not pay their rent and those who, at the expiry of the lease, do not leave their apartment in the same condition as when they first occupied it. Also, we see that noise is kept at a minimum. After all, this affects other good tenants. By the same token, our organization is interested in seeing that landlords keep their buildings fit for occupancy.

If I may break in here, we have set up in North Bay a system—which we have been forced to do by the way that apartments are left—whereby we have a bureau and when a tenant leaves a place, if it is filthy, damaged, or rent is unpaid, this is phoned in by the landlord to an office we have set up. When that tenant goes to rent another apartment, that landlord will phone this office and give the name, where the man works. If we then have any reference to that man that he left without paying rent or he left damages, he will be turned away.

They are bringing that upon themselves. If you pass the pictures around you can see the conditions some apartments are left in. Tenants are seeking rights and protection which they would like to be enforced that decent housing is guaranteed, but who will guarantee that it is kept that way? For every 10 decent and clean tenants there are three who couldn't care less about their environment. They are smooth talking and clean looking when they first take over the apartment and a few days later there are holes in the walls, the door is kicked in after a brawl, the bathroom door is used as a dart-board. That is just a few examples.

The tenants live there for a while, maybe as long as three years, or less, and in that time the apartment is repainted, repaired et cetera, work done to hallways and the exterior of the buildings, taxes are increased. These are all extra costs to the landlord. Therefore, a reasonable increase every so often should be in order, so that the landlord can realize a profit. Please don't tell us that we should not be making profit. After all, we are in business.

(This brings us to the subject where tenants feel they pay for buildings over and over again. We should feel the same way about bakeries or oil companies for that matter; we buy their products but that does not give us ownership of the companies, so why should tenants have control of our buildings?)

Tenants are asking how sound is this investment of millions of dollars, if there is no return. Absolutely right. Who wants to invest without a return? Paying rent is not an investment, it is merely securing a necessity, such as paying for groceries or fuel.

Everyone needs food and shelter. If one doesn't wish to rent, he has the option of purchasing his own property and getting a return on the investment, and we must add, the headaches that go with it.

To ask an individual to invest his profit in more housing, if he does not wish to, is in fact invading his privacy and his freedom. As long as we are not breaking the law, you take our freedom away, then what have we got?

To the paragraph regarding landlords running buildings with disrespect for the tenants and their interests, charging too high rents, the quality of maintenance and the stream of harassment that tenants endure, who is taking a chance, the tenant or the landlord? For instance, you have a tenant who refuses to pay the rent and refuses to leave the premises. In order to get him out it can cost the landlord hundreds of dollars, loss of time, frustration, plus loss of income while you are trying to evict him.

Therefore, there must be a change made in the Act to provide a system where the landlord can evict an unbearable tenant in a speedier way, and a board set up to listen to complaints, to give assistance and advice without added cost to the landlord—I should add also tenants; after all, it doesn't cost the tenants a dime to skip in the middle of the night owing rent. The landlord is not allowed to hold anything of value for rent owed, without going through the courts. If some drastic changes are not made, there won't be any landlords left, not if the tenants and the government gain controls of all buildings, their profits, payments, interest rates et cetera.

In the north, it is very hard to find investors to purchase income property. One hears this argument, "Why should we invest our money in properties that, at the rate things are going, the tenants will be running us?" So you see, the rent review area and the Landlord and Tenant Act needs serious thought.

Since it came into effect it has not really worked, it has only caused confusion. First, the rent review board: When, as I said before there are six apartments on one floor, all identical and the rents vary from \$113 per month to \$202 per month, the tenant paying \$113 is satisfied, but the tenant paying \$202 is accusing the landlord of overcharging him. How, in the first place, did this happen, that the prices are so different? It proves the rent review system has not worked, and for that board the government has spent millions of dollars in operating costs.

The same goes for the Landlord and Tenant Act. It has also cost thousands of dollars and it has done nothing but cause problems between landlord and tenant, and unnecessary cost to the courts to satisfy both parties. Where investment by private persons is concerned, it has surely kept them from investing in apartment buildings. It has also cost many people their savings and forced them into foreclosure, as they relied on the rents to keep their payments. Instead they have to take the tenant to court, with high costs, have to pay for eviction, and at the same time, while waiting for the court's decision, lose rent. Even if the decision was made in their favour, they found out that the tenant owned nothing of value and therefore still had no way of recovering their loss. Therefore, the landlord should be permitted to accept a security deposit.

Because of all of the aforementioned, we are placing our trust in the standing committee that the committee will come up with a new system to replace the rent review board and a new Landlord and Tenant Act that will eliminate all these problems, and we are hereby proposing the following:

[10:30]

In place of a rent review board we recommend that a provincial court—the landlord and tenant division—be established with a judge presiding—and the court to determine the following matters: 1. The legality of leases; 2. enforcement of leases; 3. recovery of damages and overdue rent; 4. eviction for non-payment of rent; and 5. eviction of unsuitable tenants without lease; and matters coming before that court must be heard within one week unless it is humanly impossible to do so.

This is about the only thing I can say. As I said last week, I don't want to keep you too long. I just want to get in the things that have to be changed. It has to be changed because, as I said, in North Bay within 30 days of setting up we had approximately 70 members; and in 60 days they all had the same problem in every building. As you said before, and as was said last week, the landlords are increasing their rents illegally. Sure, why shouldn't they? It doesn't help to go to the rent review board. They don't do the work.

You can see six identical apartments in the same building, on the same floor. Why should they all be differently priced? They should be one price. Maybe it would be better to lower the \$202 and to increase the \$113. That would be better for the landlord, so that he would have the same income



from each apartment; and no argument from the tenants. As I said, we have also formed that office where we can phone in for information. That is not good for tenants because there are going to be tenants without a home to live in. Slowly, as it spreads, that person is not going to have a place to move to. Who is going to look after him? The government?

We get to the other matter, with people who are on government help, welfare, unemployment insurance, mother's allowance—although I have to add one thing: People on mother's allowance are the most reasonable tenants you can have. They always pay their rent. But what about people on welfare and unemployment insurance? There should be a way for a landlord to recover his rent from these people, because there are no wages to garnishee. You are not allowed to take their furniture away from them, even if it was bought with your own money. Therefore, the government must come up with some way that we can be protected too.

We can see, and we agree, that the tenant has to be protected. Everybody has to be protected; but not just the tenants. It's not just a matter of continued tenancy protection. What about us? We are people too. We are the ones who pay the taxes to support the person who is on welfare and on unemployment insurance. Why do we have to be pushed into the background? We must ask that the committee see that something is set up so that we will be helped just as much as the tenant. We don't mind control. But it must be in the interests of both tenants and landlords, as it has been before. You might as well take the rent review board and the Landlord and Tenant Act and tear it up. Throw it in the garbage and start from the beginning because none of it has worked.

You know it as well as we know it. Therefore, there is no way of saying it should be extended for another two years. If you have a headache, you take a tablet to get rid of it. You don't ask to have that headache for another two years. So you should not ask to have this headache for another two years.

Now, about the 60-day expiry of leases. It should be 30 days' notice unless other agreements are made between the landlord and tenant. If other agreements are made on a lease and they are paying 60 days at a time, 90 days or a year, then it should be that way; but if they are paying month by month, or week by week, the notice should

be a week, 30 days, 60 days or 90 days, whatever the case may be.

I don't think I have much more to say. I think I got it all out in one mouthful.

**Mr. Chairman:** Mr. Beck, there might be a few questions. You don't think the program should be extended for the time being?

**Mr. Beck:** Definitely not. As I said before, you have a headache, why would you want to keep the headache?

**Mr. Chairman:** If in fact that happened, and getting back to the reference you made to the six identical units in one building with variations in rent, would it be fair to say that by then—January 1, 1979—those rents would all have been exactly the same price and would they perhaps not be considerably higher than they are now?

**Mr. Beck:** I don't think they will be higher. I think the \$202 would be lower but the \$113 would be higher. So that you might meet in between. If they settled at a price of \$180 to \$185, they'd be much better off.

**Mr. Samis:** I have a couple of questions, sir. First of all, you said the tenant has to be protected as well as the landlord.

**Mr. Beck:** Of course.

**Mr. Samis:** I'm just looking at some figures here from the ministry in terms of North Bay. Table four, for example, says the average increase granted in 1976 was 15.47 per cent. And I look at table seven and it says, for single-family dwellings the average increase was 23.4 per cent, for duplexes 25.7, for triplexes 11.6 and four to six units 11.7 and the bigger ones, a smaller percentage. With that system, if it's so inadequate in terms of providing you with a return, do you regard those average return figures there to be inadequate for your situation?

**Mr. Beck:** First of all, I would like to see where you got it from.

**Mr. Samis:** The Hon. Larry Crossman.

**Mr. Beck:** From Mr. Crossman? You mean to tell me he went from apartment to apartment and asked the tenants? Where did he get it from? From the rent review board?

**Mr. Samis:** I would assume the rent review board in North Bay would have it.

**Mr. Beck:** Then let me tell you. People have gone to the rent review board and asked for an increase of, I believe, 18 per cent and they were given eight. That's the highest increase anyone was given, as far as I know.

**Mr. Samis:** His figures would contradict you.



**Mr. Beck:** I don't care what figures there are. I mean, it's what the people are paying that should be considered.

**Mr. Samis:** Well I would assume his office in North Bay would keep track of every case that appears before them and the judgement in each case.

When you talked about the idea of a provincial court, as you're suggesting, you didn't mention anything about rent increases at all. Do you think it should come under its jurisdiction?

**Mr. Beck:** No, I did not put that in the vote. But I do mean that everything should be under there. I mean if the tenant feels the increase is unnecessary, they should have the right to go there too.

**Mr. Samis:** What would you do with the present formula, of six per cent for example. Would you scrap that entirely?

**Mr. Beck:** I really don't know about the six per cent.

**Mr. Samis:** Do you think there should be any set figure?

**Mr. Beck:** Look at the pictures you have there. How is a man going to recover his losses? A room left full of debris from a dog. And you know what happens when a dog does this? It is left on the hardwood floors, and it goes through the floor. So you tell me to go get a sander and sand it off. It's impossible.

**Mr. Samis:** But I'm not asking you about that.

**Mr. Beck:** No, but I am asking to get increases for repairs like that.

**Mr. Samis:** I appreciate that, but answer my question if you would. Do you think there should be any figure or formula set at the levels of increase?

**Mr. Beck:** Yes, I think that it should be done to everything. It would be a better world to live in if there was a stop to how much you could increase things.

**Mr. Samis:** So you could function as a landlord reasonably that way?

**Mr. Beck:** Yes.

**Mr. Samis:** And the other thing I'd like to ask you about is this setup—what do you call it—in North Bay? Is it an information centre for landlords? What is this office you said you had set up in North Bay?

**Mr. Beck:** North Bay and District Information Bureau.

**Mr. Samis:** An information bureau. Could you tell me who staffs it? Who belongs to it? Whether a tenant would have access to any

of the information on file and how those files are compiled?

**Mr. Beck:** We have a lawyer in our membership and we have asked that all information given to us about a tenant be in writing, sent to a post box which we have in North Bay and witnessed by someone other than the landlord and his family.

**Mr. Samis:** Witnessed in what sense?

**Mr. Beck:** Taken into the apartment. I would bring someone like you into the apartment. You should see what shape it was left in and also that no payment of rent, et cetera, had occurred. It would be written down, signed and witnessed and it would be on file. If tenants wanted to see it, it would be available any time.

**Mr. Samis:** The tenant does have access to the file?

**Mr. Beck:** Yes.

**Mr. Samis:** If he goes to a certain unit and is told that because of the file he is not accepted, does he have access to check the accuracy and authenticity of it?

**Mr. Beck:** Yes, definitely.

**Mr. Samis:** Do you have cases where tenants do ask for that when they're turned down?

**Mr. Beck:** Not so far. I think they have been too ashamed to show up.

**Mr. Samis:** How extensive would you say your files are?

**Mr. Beck:** So far, after 60 days, there are only about four or five. That's after 60 days. I would like to see it after three or four years.

**Mr. Samis:** If this expands and becomes permanent, what would you think should be done to protect the rights of people who may have had bad relationships with the landlord and, therefore, the landlord may have deliberately stacked it—let's not say that; let's say, how would you guarantee the rights of people to ensure that they're not being misrepresented in the file? It could accumulate to the extent that it becomes a sort of blackball operation, could it not?

**Mr. Beck:** No, I can't see how that could happen when it's in writing and there are other witnesses. Besides, why would we do that? The tenants are our customers. We look after our customers. We don't want people in our organization who would do something like that. They would be kicked out as well as the tenant.

**Mr. Samis:** Can you give me an example of the types of people used as witnesses in a fair-sized property damage situation?

**Mr. Beck:** Neighbouring tenants.

**Mr. Samis:** You'd use other tenants?

**Mr. Beck:** Yes, yes.

**Mr. Samis:** As witnesses?

**Mr. Beck:** Yes. Many tenants are very happy to help out in this way if they can get rid of such people who may be living next door to them.

**Mr. Samis:** What kind of people belong to your landlord group? Are they mainly large landlords or medium-sized?

**Mr. Beck:** Everybody. From a duplex right up to a 50-plex. It makes no difference.

**Mr. Samis:** What is the general rental situation in North Bay?

**Mr. Beck:** When an apartment is advertised in the paper for rent, one could sit at the telephone all afternoon with people calling about the apartment.

**Mr. Samis:** It's very tight, then?

**Mr. Beck:** Yes.

**Mr. Duksza:** You said you didn't mind controls. Then you said you wanted this particular legislation scrapped. Were you talking about the rent review legislation which sets the permissible increase at six per cent, or were you talking about that as well as the Landlord and Tenant Act?

**Mr. Beck:** I'm talking about both.

**Mr. Duksza:** When Mr. Samis was questioning you, you said that you believed some price increases were essential. What is the figure you accept as a suitable increase?

**Mr. Beck:** If a board is set up in each big centre, such as North Bay, Toronto, et cetera, a board of one tenant, one landlord and one government appointee, I believe a rent increase could better be arrived at because there would be a neutral person to decide what kind of increase is acceptable. If someone has been left with a damaged place and he has to fix it up, he must have a slight increase and also a security deposit allowed him. This could be done by this kind of board.

**Mr. Duksza:** There will always be cases of damaged apartments, et cetera. The example you gave is quite horrifying but I don't think it is common. I am not concerned so much to deal with each individual case, because we can't as a committee, but to deal with the problems of landlords and tenants in general. Since you have said you accept some kind of control in terms of an increase, what would be the figure you would agree on?

**Mr. Beck:** At the time when there was an eight per cent increase, that was acceptable.

**Mr. Duksza:** An eight per cent increase is acceptable to you. Do you think most landlords have a reasonable return on capital?

**Mr. Beck:** I would say so. Yes.  
[10:45]

**Mr. Duksza:** Your major problem, then, is:  
1. You have no control over some tenants in terms of what they do to the apartments, and  
2. six per cent is simply not enough to have a return on your capital, while eight per cent would give you that.

**Mr. Beck:** Yes. But also, understand that the rent review board that is sitting now should not be dealing with one place according to the way they feel that morning. That's what they must have done when they set the prices for the six apartments. At one time a decision came down, "Oh, you don't need an increase today. Maybe you can get it next week."

**Mr. Duksza:** Can I ask you more? Mr. Samis gave you a general figure which is higher than the general figures in terms of increases for the various types of accommodation in North Bay, where, on the whole, they are higher than anything in Metro. For the 33 per cent or so of apartments which have gone through the rent review process, the average increase has been 12.5 per cent. The rate Mr. Samis suggested was much higher than that. In effect, the review board—well, it does seem much higher than the average increases in Metro. Once the landlord actually applies to a rent review court or tribunal, whatever you want to call it—

**Mr. Hall:** Point of order, Mr. Chairman. Would you refer again, if you don't mind, Mr. Duksza, to which particular table these figures are in that you and Mr. Samis are looking at?

**Mr. Samis:** Table seven.

**Mr. Hall:** I am looking at table two, for example, and I see, with regard to North Bay, a 10.46 per cent increase granted.

**Mr. Samis:** In total. But then table seven had it broken down into different types of units.

**Mr. Hall:** I think we should be specific in our references here.

**Mr. Duksza:** I think we are very specific, if I may point out to you table seven. You shift from one page to another. You will find it much more specific.

**Mr. Hall:** Just for the record, though, I think we should identify which page we are talking about. That's all I'm asking.

**Mr. Duksza:** We did. If you have a point of order, then please—that's very specific.

**Mr. Epp:** What page is that on?



Mr. Duksza: Table 7. After all, you don't distrust Mr. Grossman's figures, surely.

Mr. Beck: Excuse me, but did Mr. Grossman go around and get all those figures himself?

Mr. Duksza: He has a large staff; he may not have done it himself.

Mr. Beck: That's what I was thinking, because I can guarantee you that I don't believe them at all.

Mr. Hall: I suggest those figures would give other impressions, Mr. Duksza.

Mr. Duksza: To answer your question, we can go through the figures in much more detail than I have. As far as I am concerned, from page seven it is very clear where North Bay fits. The point is that on the whole I think the rent review process has increased the rents for those who have applied an average of from 12 to 17 per cent. That has been the average across Ontario. That, I think, is the figure that has been accepted by almost everyone. We could ask Mr. Beck whether he has gone through a process of appealing. You have never gone through the process?

Mr. Beck: Why should I bother? I might hit them on a "bad moon" day and then I wouldn't get anything. Therefore, I might as well do it myself.

Mr. Duksza: I'm sorry. Let me just start again. You have a six-plex yourself, have you?

Mr. Beck: Yes.

Mr. Duksza: And have you accepted the guideline of six per cent?

Mr. Beck: I have to. I can't afford a \$2,000 fine.

Mr. Duksza: Good, I follow what you are saying.

Mr. Beck: I have to take the damage, but I can't afford the fine.

Mr. Duksza: Did you ever appeal that?

Mr. Beck: No, I am doing it now.

Mr. Duksza: For the whole six-plex?

Mr. Beck: I'm doing it for the whole of North Bay.

Mrs. Campbell: Here is what he means. He is appealing here.

Mr. Duksza: I think it is a clash of two accents.

Mr. Beck: I'm doing it now. I have never seen it necessary before, because I knew it was of no use. I think the office is sitting there absolutely to spend money on nothing, whereas it would be much better if they had the same offices and spent the same money to have a presiding judge use those chambers for something else.

Mr. Duksza: Actually, you do have a copy of getting your rent raised. According to the present Act there is this appeal procedure, and the chances are that you would get an increase. But to return to the thing which concerns me, you said in effect that if the permissible increase in rent were eight per cent instead of six per cent per year you would be satisfied for that particular part.

Mr. Beck: I would say if there was an eight per cent increase yearly they should be satisfied.

Mr. Chairman: Just before Mrs. Campbell starts, in future to avoid any confusion because there are, God knows, a pile of numbers we will probably all make reference to, if we state clearly the page reference so that everybody on the committee can look at the same page reference and follow the same numbers, it will move things along.

Mrs. Campbell: I'd like to pursue what is being said. I think that out of this there is some consensus with tenants as well as with landlords on the way in which rent review works, as it is currently set up. I'm interested that we now have at least two groups with entirely different approaches, that is, tenant and landlord, seeking some other kind of review procedure than that which we have.

You have suggested a provincial court. I take it from your answers to the previous questions that the matter of rent increases is left out, but not by design. You would feel that whatever the tribunal would be that they should have the same authority to look at rent increases as to look at recovery of damages and this sort of thing. That's what you are saying.

Mr. Beck: No, I am saying that eight per cent a year should be allowed to all landlords automatically.

Mrs. Campbell: I guess this is where there is no consensus. I thought what you were saying in the first instance was that you didn't like the figure to be spelled out. It's something I'd like to share with you that has bothered me, in that spelling out the rate of increase has, at least in Toronto, pretty well, meant an automatic increase, of either the eight per cent or, as now, six per cent, whether it is justified or not.

I had thought that perhaps you were saying that if you had someone to look at these cases you might come up with something that was fairer both to tenants and to landlords, in that you would remove the automatic increase element. But that's not what you are saying. You are saying you want an eight



per cent increase to be an automatic increase, period.

Mr. Beck: And I said, if it was considered unreasonable, there should be a board to look into it, composed of landlord, tenant and one government appointee.

Mrs. Campbell: If the eight per cent were unreasonable in any specific case?

Mr. Beck: If it was considered excessive, yes.

Mrs. Campbell: You have suggested a provincial court. There are other suggestions that there might be a municipal court.

Mr. Beck: It could be.

Mrs. Campbell: You would have no objection. The function that you want is a court function as opposed to a review board function. Is that what you are saying?

Mr. Beck: Yes. One municipality may have more use for it than another. For example, Toronto would have more use for it than we would have.

Mrs. Campbell: I am not asking you to say for yourself because I don't want you to condemn yourself out of hand in this committee, but you did make reference to some who were illegally raising rents in North Bay. Would you elaborate on that?

Mr. Beck: I will say that rather than go to the rent review board, they do as they said last week. They put a little increase on the apartment the following month and, if the tenant doesn't like it, he moves. If he is smart, he goes to the rent review board. In many cases, I guess they're not too smart. They take it or they find another apartment.

Mrs. Campbell: You were inclined to say in the beginning that you rather blamed the rent review board for the differences in the rents between \$113 and \$202.

Mr. Beck: Yes.

Mrs. Campbell: Would it be accurate to say that perhaps the landlords have somehow themselves participated in that differential by illegal practices?

Mr. Beck: Not in this case, Mrs. Campbell. The landlord has gone to the rent review the first time. Once you have been to the rent review and a tenant in that building finds out, you don't make any illegal raises any more. From there on you'd better go to the rent review board every time, or they will get you.

Mrs. Campbell: If you were to have a court, would you not think it would be better, in the interests of the landlords as well as the tenants, that all of the apartments in any one complex be reviewed at the same time?

Mr. Beck: Yes.

Mrs. Campbell: You would approve of that?

Mr. Beck: Yes.

Mrs. Campbell: I see.

It seems to me that you've covered rather well the way in which you've set up this bureau of information. The photographs that you've shown are repulsive, I think, to all of us and we all recognize that there is a small percentage of tenants who really are objectionable both to landlords and to fellow tenants. There isn't any question about that. I do find it a bit repugnant to think in terms of blacklisting, but you do seem to have covered the situation by having witnesses to the condition of the apartment. However, when it comes to the matter of non-payment of rent, I don't suppose you can have a witness other than the landlord.

Mr. Beck: No, but you give a receipt to every tenant, and if you do not have a receipt for your rent, you have not paid it, have you?

Mr. Epp: Not necessarily.

Mrs. Campbell: Not necessarily, no. In this life we see so much paper we're apt sometimes to lose some very important paper in the course—

Mr. Beck: I always make sure I pay everything by cheque and that way I have a receipt.

Mr. Epp: Would you say that I wasn't born because I didn't have a birth certificate?

Mr. Beck: You were born, but you'd better have a birth certificate or you would not be sitting here.

Mrs. Campbell: I am concerned about the element of the non-payment-of-rent group. I have every sympathy with landlords who do have tenants who skip. I have sympathy with landlords who have tenants who vandalize property. Have you ever in the course of your dealings tried to set up with tenants in your own complex or others a tenants' association which would have as part of its operation an ongoing review of the tenants' responsibilities in the building as well as the landlords' responsibilities?

Mr. Beck: As I recollect, last week the speaker from the tenants' association never mentioned the damage done to apartments. I think the tenants should have rights too, but I want them to feel the same thing about us and they are not doing that. Therefore, even if they set up an association, what could they do? Fight with the tenant to get him to keep it clean?

**Mrs. Campbell:** It's my experience that if people get exercised about the way in which a tenant functions in the building, the other tenants tend to be quite critical and they tend to bring a lot of pressure to bear. I just asked, however, if you'd even thought about that, or given consideration to it, since you do use tenants as witnesses of the condition in which the apartment is left.

[11:00]

**Mr. Beck:** We have many tenants who look after their places. We have tenants who will come and ask us for paint to paint their apartments and we will give it to them. But we also have tenants with children and the parents couldn't care less what they do. The children come home from hockey. On the way through the hall the hockey stick goes all the way along the wall. This is damage and it must be looked after in some way.

This is why I'm saying we must be allowed—without having to do it illegally—to take a security deposit so we can hold it and pay it back to the tenant, even if we have to pay interest on it. I don't care. I would pay interest on the money so long as I could have it sitting there. But I think it is necessary that when you look after tenants you must look after us too, as I said before. We are in the position that we have no right to do anything. We must go to court to get anything that is coming to us—damages, anything.

This place yesterday—if I want to recover from the man I've got to go to Vancouver. That's where he left for. How am I going to go to Vancouver? It would cost me more money than I would make on that apartment in three years.

**Mrs. Campbell:** Yes, I think I recognize the difficulties. I think we all do. But what I'm trying to get at is that it seems to me that coming out of both landlords and tenants is the obvious message that they want some other form of tribunal than that which is in place—let's leave landlord and tenant out—under the rent review situation. With landlord and tenant you do want to have a speedy hearing. That's the real nub of it, isn't it?

**Mr. Beck:** Yes.

**Mrs. Campbell:** It's not the way in which the hearing is conducted or anything of that nature. It's the delays in getting to the court—and getting redress.

**Mr. Beck:** And a guarantee of how to get paid for the damage. Only the government has the right to put a lien on welfare or unemployment insurance. If they went to a provincial court and a man on welfare was

found guilty of damaging an apartment and it was proved with pictures, film, anything, we are entitled to money for that. Nobody can ever dispute that we are entitled to money for the repair of these things and cleaning up. How do we collect it? How do we get it from a man on welfare? I hear all the time, "Poor man, he's on welfare. How can you be so rough against him?" How can he be so rough against me?

**Mrs. Campbell:** I think we could all engage in a philosophical exercise on what happens to children when parents are on welfare and the punitive aspects of it. It's a very difficult situation. I'm grateful to Mr. Beck that he spoke so favourably of women on mother's allowance. They don't often get that kind of praise, and I think we welcome that. I have no further questions.

**Mr. G. E. Smith:** Mr. Beck, how would you propose that the court, whether it be provincial or municipal or an independent court, if you want to use the term—

**Mrs. Campbell:** Courts are all independent. What are you talking about? That's your administration of justice system.

**Mr. G. E. Smith:** When I say independent I mean separated from the—

Interjections.

**Mr. G. E. Smith:**—federal or provincial jurisdiction—non-political.

Seriously, how would you propose that the costs of operation of this court might be borne, all or at least in part? There have been some suggestions made that it might be that if you had a problem that you would pay a nominal sum to have the court deal with it. Or there might be some type of assessment against a tenant who wanted to take an appeal through that court. Would you think this would be fair or should there be no charges made?

I see Mrs. Campbell shaking her head. I think it was suggested in our red book that the tribunal might be funded by a nominal sum from both landlords and tenants to avoid abuse.

**Mr. Beck:** How is the cost paid for rent review? Who is paying the rent review board?

**Mr. G. E. Smith:** At the present time, I assume the rent review board is funded by the provincial government.

**Mr. Beck:** To help the tenant? Then I think the same thing could be done to help both parties.

**Mr. G. E. Smith:** I disagree that it helps any one particular party. I'm not saying we shouldn't change the system. I think we all



are looking at the possibilities of changing the existing system. All I'm asking is whether you have any thoughts on how it might be funded. Should there be any costs borne by either the landlord or the tenant who wished to use that course?

**Mr. Beck:** I wouldn't be able to answer for my colleagues up there. I would have to ask them. I can only answer for myself. If a thing like that could be set up and the government would pay for it, then just a small fee could be charged for each individual case that was brought for adjustment. I mean a small fee, I do not mean lower your cost; because they should be able to present it themselves without having to use a lawyer.

**Mr. Makarchuk:** This question may have been asked earlier.

**Mrs. Campbell:** It probably was.

**Mr. Makarchuk:** Yes. You say you're in favour of tribunals. Instead of having to go to court and going through all the formality, the lawyers and everything else. You would prefer a tribunal-type operation to resolve a case?

**Mr. Beck:** Yes.

**Mr. Makarchuk:** You'd be in favour of that kind of thing?

**Mr. Beck:** Yes.

**Mr. Makarchuk:** The other argument that you have basically is the matter of time. In other words, right now when you start the proceedings it takes a long time. By that time everything happens, all hell breaks loose in the apartment and all you've got left is the bricks, right?

**Mr. Beck:** Yes.

**Mr. Makarchuk:** And by the time you get to it, it's too late. So basically what you want is something that can speed up the procedure where you can take action one way or the other?

**Mr. Beck:** At the same time, this should be able to be done fast so they can put a restraint on tenants before they skip the province. This is the whole thing. If it can be done expediently so that we can recover what we are losing, we would be able to pay a fee for that service, which we'd rather do, I feel, than have to lose so much money, as we are doing with the system now.

**Mr. Makarchuk:** I question that when you say you're losing money. In fact what you're saying is that you're not making as much as you possibly could. That is really what you're saying.

**Mr. Beck:** I'm saying it like the oil companies, yes.

**Mr. Makarchuk:** That's right. You say you expect a return of eight per cent on your investment.

**Mr. Beck:** Yes.

**Mr. Makarchuk:** This is your total investment, et cetera. How would you handle this situation? You have a building, you refinance it and you draw out a certain amount in cash which you put in your pocket. As a refinance, would you want eight per cent on top of that as well? In effect you've inflated your costs, but you're sitting with \$50,000 or \$100,000 in the bank in cash as a result.

**Mr. Beck:** As I said before, we are not for taking the tenants. The tenants are our customers and we prefer to look after our customers. We will do it reasonably so that we do make money, but I don't mean to rob them; and that would be robbing them.

**Mr. Makarchuk:** Right. What I'm trying to get from you is that, in effect, it's still a legitimate cost in one sense in so far as your bookkeeping is concerned. Your mortgage has gone up and the amount you're paying in interest has gone up. The interest rate may be the same but your interest has gone up. In effect, what you've done is that you've taken a lump sum of money for yourself out of the operation. Are you following me?

**Mr. Beck:** Yes. If I took it out for myself, I would not ask for increase, but if I took it out to invest in another place, yes.

**Mr. Makarchuk:** All right, that's a nebulous argument. You're saying that when you refinance a project of that nature you want to pass that extra cost, through your rents, to the tenants; or that you should be allowed to do that, is that correct?

**Mr. Beck:** If you get an increase in cost in your place and if you needed that money to live on.

**Mr. Makarchuk:** I don't want to play games with you. The increase was made by you. In other words, you increased the costs yourself but in the process you took out a certain amount in thousands of dollars and put it in your pocket. In your thinking, should this be a legitimate cost passed through to the tenant?

**Mr. Beck:** No, because you would take that money and invest it and make more interest on it than you get from the tenants.

**Mr. Makarchuk:** That's right. In other words, what you are saying is that somewhere, when we are figuring out what the rent



increase should be, we should look at it in terms of what the book value was originally, what the normal costs were and exclude the passthrough costs which are put in there strictly to benefit the landlord and nothing else?

Mr. Beck: Unless he could prove that he had to put it in to keep the building.

Mr. Makarchuk: Yes, there is a possibility in that; the refinancing, in other words—his mortgages expiring after a period of time and so on.

Mrs. Campbell: Could I just follow on that? I am a little confused by your answers, because you said originally that you would be satisfied with an eight per cent increase—period. This is adding the new dimension of the flexibility of increase over eight per cent. Which are you talking about?

Mr. Beck: No, Mrs. Campbell, it is not confusing because I said I was in favour of an eight per cent automatic increase. But I also said that we should have a board looking at it, if it was done reasonably.

Mrs. Campbell: Yes, but my understanding was that you were saying eight per cent automatic, but if eight per cent was in fact too much, a board could look at it. You are also saying that if eight per cent is not enough you would have someone look at that too.

Mr. Beck: Yes, but this was a different question.

Mrs. Campbell: I know, but surely, Mr. Beck, your answers to the two questions have to be somewhat consistent.

Mr. Beck: No, because this was a different question. It concerned my taking an amount of my investment out of the building and raising my interest from 10 per cent to 12 per cent; I cannot ask the tenants to pay for that. That is impossible. He would never be able to pay for it.

Mrs. Campbell: You want to bet that it's impossible? It is happening every day in Toronto. I am glad North Bay has so much more integrity.

Mr. Chairman: Are there no more questions for Mr. Beck? Thank you, sir, for taking the time to come back.

Mr. Beck: Thank you very much.

Mr. Chairman: Mr. John Imrie is next on the list, and I believe he is in the room. Then we have a representative from the Parkdale Community Legal Services, Colleen Swords; then Mr. Krehm and Mr. Weidlin. We will proceed in that order.

Does any one of the four individuals I have mentioned have to leave early and if

so would rather speak now?—No. We will proceed down the list as it is on the sheet.

Mr. Imrie: I'll just comment for probably 15 minutes. I thank you for this opportunity to speak to you. My status and qualification is that of a small property manager. On behalf of my wife and family I look after 35 housing units in six different buildings. All of us can join together to regret that rent control had to be imposed. No one in his right mind would wish for it if it were not somewhat necessary.

Would I advocate the complete lifting of controls at this time? I would say, as a small landlord, probably not, and yet I am not an expert and do not know the problems of large buildings. But I would not be in agreement with the lifting of controls at this time.

I have two propositions for the committee: 1. We should go part way with decontrol—that is, take controls off some more properties; and 2. we should try to simplify the system and eliminate the abuses and inefficiencies.

I have read over the policy option for continuing tenant protection and I found it sets out the options very well and I think whoever drew it up is to be congratulated, in my opinion. I wish to refer to policy options—on page 41—for continuing tenant protection—chart 6(1), under increased exemptions.

1. In place of six units or under, we would ask the committee about specific policies for rent review. In my opinion, in place of six units or under, we would ask you to be more daring and experiment with 10 units or under. A small landlord does not have the leverage that would probably be available with larger units.

I have a photograph of one little building that we have—

Mrs. Campbell: Could that be passed around?

Mr. Imrie: In our case, we have two four-plexes in this picture that I am passing around, or semis with one heating system and one tax bill. The issue, as far as we are concerned, would be this: Would we be classified as an eight-suite apartment or would we be classified as two four-suite buildings? And this concerns me. These pictures show an eight-suite, but our address is 150-apartments 1, 2, 3, 4; and 152-apartments 1, 2, 3, 4, but municipally we are known as 150, probably because we have one heating system. So I would ask you to consider this question.

2. I wish to talk to you about the evils of rent review and the inefficiencies. We have

in this particular building one apartment which pays \$75 less than the other apartments in that same building. Now, it's impossible to go back to rent review and get a further increase. We tried; but after going to rent review, the rent was established at \$274. Then I appealed and went before Mary Hogan. She tossed me out. She said the papers weren't properly signed. That was not so; there were proper admissions of service. Nevertheless, we started all over again and gave the tenants 90 days' notice and again went before rent review. In that interval, we received \$272, which was \$2 less than our first time at rent review, yet we couldn't get the rent adjusted to a basic figure. In my opinion, the landlord is subsidizing this apartment at a sum of approximately \$1,000 per month. And this party also has parking.

**Mr. Chairman:** A thousand dollars a month?

**Mr. Imrie:** A year, rather; I'm sorry. This particular building has no mortgages. The return on investment after expenses is four per cent. The return on investment after depreciation is three per cent. I know some will say, "Why keep a building with such low returns?" We've had that particular building going on for 30 years. I know you're going to say we bought it very inexpensively, but I believe I have an argument for that. These buildings have two- and three-bedroom units or more. Fifty years ago they were classified as luxury buildings. We have good tenants; we do not have the problems of the previous landlord. We have no damage done to our building by our particular tenants; they're excellent tenants.

When we went to rent review, approximately two years ago, I estimated that this eight-plex, because it's near St. Clair in the Wells Hill area, was worth around \$200,000. I've revised that figure now to \$175,000, perhaps \$150,000. But even so, if I were to sell that building, which has no mortgages, and if I invested that \$175,000, I would probably get a return of \$17,500 or even \$15,000, but (a) there is no risk and (b) there is no management.

Previously, no capital gain or spec tax applied a few years ago. If you took a lower base rent, you made up on valuation. You could afford to give the tenant a bargain, because your capital was increasing. But not so today. Now, since the capital gains legislation was passed two or three or four years ago, whatever it was, there is only one place today to get returns on investments; that is rent. Up to the point of implementation of rent review, the tenant

in our particular case has been subsidized. Now, because of government capital gain, the spec tax, in my opinion, the tenant must pay his fair share. There are only two ways of increase: capital and rents. If we invest in mortgages or term deposits we have no risk, for no management skills are required.

My fifth point is this: In a small apartment building, one has to consider, 1 the landlord is involved, 2 the equality of investment and 3 it would appear to me that you're entitled to all that a mortgage or term deposit will give you or more.

Mr. Chairman and committee members, I suggest the board should help me. In my submission, the rent review officer made a glaring error when he allowed, in relation to the rest of the building and other similar premises, that the other tenants in the same building are being discriminated against and this particular tenant or tenants have no right to be singled out for a benefit not enjoyed by other tenants.

That is all my submission and if there is any question, I would be glad to answer.

**Mr. Chairman:** May I just have one first question, sir, to clarify something for me? You talked about the existence of a capital gains tax and the spec tax; you said the only way an owner now can get a reasonable return is through rents and something else. I didn't catch what you said.

**Mr. Imrie:** No, I said at one time, before the government was involved, that year by year your building increased in value so therefore that was more important than the rents to certain people, certain small landlords. Therefore, if you had very fine tenants—and we have fine tenants—they didn't damage the buildings. But I can't speak for something I don't know of; the previous speaker knows of what he's speaking. I can only speak for our situation.

We have had small apartments—it's not a large setup, but it has been in our family for practically 30 years. I have managed these buildings for 30 years. I should also like to point out that I am semi-retired at this point, but I still manage the buildings. I have a phone at my bedside, the tenants can phone me up; they have no problem getting hold of us and we give them service.

Mind you, with the return on investment we have to be very careful, because today I won't even let a contractor come in and fix a stove unless I see exactly what has to be done. To give you an example, the other day we needed an element in the stove at a little property and we called in Doyle Electric. I said, "Don't come until I find out the model



number." They brought an element I used to build machinery for; I used to buy them for \$7 from Chromalox. The element was \$30. Now probably today they buy it for \$15 and they add on \$15. Then they charge \$15 for the first 15 minutes so I get in there with my man and I move out the stove so there's no problem.

If we can make the repair, a simple repair, we make it and there's no charge, but in this particular case the tenant, in cleaning out the oven had, rather than removing the element and putting a piece of Kleenex in the socket, just sprayed with a spray can and had burned out the points. It is a costly thing today for a small landlord to run a business, so we are very very careful on our expenditures.

But to answer your question—I am sorry I diverted—there is only one place today to get a return on your investment and that is off rents, because capital gains applies to business.

**Mr. Makarchuk:** You argued with the proposition that some units in your apartment can be at one rent and some at another and you have to go and apply before the rent review board on an individual basis. If you have to go to rent review, you would prefer that it apply to all units at the same time?

**Mr. Imrie:** I wouldn't want to go to rent review again. It's too costly in my time. You follow what I mean?

**Mr. Makarchuk:** Yes.

**Mr. Imrie:** I would prefer an exemption for 10 suites or 100.

**Mr. Makarchuk:** But if you have to—and I am just trying to find out because there was one suggestion by the tenants that in a large building, or even a smaller building, in going to review, all the apartments in the building should go before the same hearing.  
[11:30]

**Mr. Imrie:** As far as I am concerned, in our particular case, we have had to raise rents six per cent because of taxes, oil and gas, but in this particular case, if I were going to solve the problem—and I don't think you need the wisdom of Solomon to solve it; I think a landlord could solve it. In that particular eight-suite building our rents are around \$25,000 gross roughly—maybe they are \$26,000, there is six per cent on right now—so we are getting a return of, as I said, four per cent, around \$14,000.

But to answer your question as to how I would solve the problem if I wasn't under

rent control, I would not raise the rent of the other seven tenants because that \$1,000 or \$1,100, whatever it may be, that tenant should pay their fair share and I wouldn't raise the other tenants that year. That works out to around five or six per cent.

You reach a point where you are going to price yourself out of the market with small buildings such as we have, or you have to get rid of the buildings. We don't want to get rid of them, even though you say, "Well, you are a poor businessman." We still have a feeling to rent and to give good value. In our particular case we rent to mostly young people. They are young professional people and they are excellent people. We have found them to be very good tenants, regardless of what anyone would try to tell us.

**Mr. Makarchuk:** You say your return on investment is four per cent. How do you arrive at that four per cent figure? Let's put it this way. You depreciate the building a certain amount each year—or do you not depreciate it?

**Mr. Imrie:** Yes.

**Mr. Makarchuk:** All right, you take in on your eight-plex about \$26,000. What do you value the building at?

**Mr. Imrie:** Before rent review I valued it at \$200,000. Today I value it somewhere between \$150,000 and \$175,000.

**Mr. Makarchuk:** You depreciate it on what? On \$200,000 or are you depreciating it on \$100,000?

**Mr. Imrie:** No, sir. Over the years we've added—

**Mr. Makarchuk:** I'm asking you rather personal questions. You don't have to answer them.

**Mr. Imrie:** No, I don't mind answering. If you get in a stove or a fridge, this has to be amortized. In other words, you can't write that off completely. So as we've made additions this has gone to the depreciation. So roughly we pay off about \$1,500 depreciation on that eight-suite building.

**Mr. Makarchuk:** If you are depreciating it at five per cent and you say you have a value of \$150,000 that's about \$7,500 right there.

**Mr. Imrie:** How do you make \$7,500?

**Mr. Makarchuk:** Five per cent of \$150,000.

**Mr. Duktzta:** Land does not depreciate.

**Mr. Imrie:** No, land wouldn't be depreciated, that's so.

**Mr. Makarchuk:** No, but for tax purposes depreciation is allowed on your buildings.

**Mr. Imrie:** Yes.



**Mr. Duksza:** On the book value.

**Mr. Makarchuk:** On the book value.

**Mr. Imrie:** Yes.

**Mr. Makarchuk:** Your book value is different then. It is not \$150,000?

**Mr. Imrie:** Oh, no. I'm sorry. I say if I go out on a free market today and offer it for sale that we would probably get \$150,000 for that eight-suite building, or \$175,000.

**Mr. Makarchuk:** It seems to me in just looking at it that you still have certain options available to you. You say you are only making four per cent. If your buildings are all paid for you have the option of refinancing the building and walking out with a fair amount of money you can invest in other things.

**Mr. Imrie:** We don't believe in that. We—

**Mr. Makarchuk:** All right—

**Mr. Imrie:** We don't believe in—

**Mr. Makarchuk:** —but that option certainly is available to you.

**Mr. Imrie:** That's right.

**Mr. Makarchuk:** In other words you would make four per cent on this and you could make 11, 12 or 17 per cent on your other money.

**Mr. Imrie:** We are quite content to keep our buildings as is. We sleep at night. We have good tenants. So therefore we have this inclination to hang onto these little buildings, unless we are put out of the business; but I don't think we will be. You say we are poor businessmen.

**Mr. Makarchuk:** No, I don't say that at all. Each person operates the way he feels.

**Mr. Imrie:** Right.

**Mr. Makarchuk:** What I'm saying is there are options available to you right now to actually make your return greater than four per cent.

**Mr. Imrie:** I think it was Will Rogers who said the good Lord ain't making any more real estate. So that is why we hang onto real estate.

**Mr. Makarchuk:** But you still can hang on to it and still make money.

**Mr. Imrie:** Well you couldn't make money. I paid off the buildings 20 years ago out of my own pocket. The tenants didn't pay them off at that point. I agree the tenants pay taxes. While I am here, that is another point. I object to the tenants paying twice as much taxes as the residents, as I do. Secondly, I think our building should be at fair market price and all property should be at fair market price.

**Mr. Makarchuk:** You would be prepared then if taxes went down to pass this on to the tenants?

**Mr. Imrie:** Absolutely, except for the one or two tenants I am subsidizing.

**Mr. Makarchuk:** Do you think the other landlords would do the same thing or act the same way?

**Mr. Imrie:** I think reasonably so. I think a good landlord would. I'm not in any association. I'm just a small landlord. We mind our own business and we don't snoop in other people's affairs. But we would give an undertaking to turn back a fair proportion of taxes to the tenant because they definitely pay them. It's in their rent.

**Mr. Makarchuk:** You, of course, understand that our problem isn't dealing with people like you. Our problem is dealing with the other landlords.

**Mr. Imrie:** May I bring up another point? I have been in court five times recently on our buildings. We have never had any trouble except with one tenant who went with rent review and pays \$1,000 less than other people in the building. This tenant called in the bylaw inspectors, which we have never had before, on the state of the building. The inspector got there and he said, "Why am I here?" In a malicious way, you can get one person or one rotten apple in the barrel. I would make a suggestion. We also were called in for fire alarms. We would have to spend another \$5,000. Then I got the Ontario building code and the building code exempts our buildings from smoke detectors or alarms.

I went into court with four charges on those four buildings. The one next door is another eight-plex. On the state of the building, the judge said to me: "You sound to me like a good landlord. We'll give a suspended sentence on the fire alarm cases." You can't afford to get lawyers. What the gentleman said before me is quite true. With all due respect to lawyers, they have their place.

**Mr. Makarchuk:** We agree with you there that they are a pain in the neck.

**Mr. Imrie:** You are trying to make a profit. I don't say that in a belittling way.

**Mrs. Campbell:** Don't discriminate.

**Mr. Makarchuk:** The world would be better off without them. We agree with you.

**Mr. Imrie:** But my point is that this money would have had to come out of the expenses. Do you follow?

**Mr. Makarchuk:** Yes.

**Mr. Imrie:** This adds to the cost of running any building. I go into court and they push at me these old bylaws that have been on the shelves. They should have been wiped out and right off the shelves because the provincial statute fills the field in a lot of these cases. The small landlord and the large landlord are still being harassed by these old bylaws. This costs money. I'm just pointing these few things out to you. I put more time now into running these buildings, not because of our tenants but because of one tenant who was at rent review who has called in all these people. They have no jurisdiction over our buildings. They are trying to enforce old bylaws that aren't validated by a provincial statute. Also when you put in such a thing as fire alarms, you come under the Ontario building code. I think it's Bill 62. I'm not going to stray but I am just telling you the problems involved that add to the cost.

**Mr. Makarchuk:** You are saying rent control would put controls on lawyers—pest controls.

**Mr. Imrie:** I would say put controls on city hall, not lawyers. I would say put controls on these bylaw enforcement officers who are called in by malicious tenants who have been before rent review. I am not downing rent review. I think this had to come in as a temporary basis and I still think it should be carried on in a certain form. My main point is that there are very few 10-suiters. There would be a legal question with what we call four-suiters, because I think we would be classified as an eight-suiter, and yet there are two separate doors. The only reason I actually came here today was to ask your help with this particular problem.

**Mr. Duszta:** You said that your gross income is strictly from your house? It is an eight-plex, isn't it?

**Mr. Imrie:** Eight suites.

**Mr. Duszta:** It is \$25,000?

**Mr. Imrie:** It's around \$25,000 or \$26,000—with a six per cent—

**Mr. Duszta:** I'm going to ask you some financial questions. It is important for us to determine exactly what we are talking about in terms of return on investment. What is a just return on investment and how is it calculated? Some of this I don't fully understand but I do intend to learn as much as I can.

You say you get gross income of \$25,000 or \$26,000 and that \$10,000 or \$12,000 is expenses—

**Mr. Imrie:** No, approximately \$5,000 is taxes. Heating is approximately \$3,500. You have to remember that these old places are not insulated similar to what you would do when you build a building today; you put R-20 in and you would get good insulation. You can put a small boiler in. To point out a problem, these boilers had the old locomotive type boilers in. They hold about 500 gallons of water. They just play with that building. Heat is never a problem. But I put a new boiler in that 152. I went before rent review—it cost me around \$10,000—

**Mr. Duszta:** You removed that from the gross, so we assume—

**Mr. Imrie:** Yes.

**Mr. Duszta:** So your income is \$14,000 I think.

**Mr. Imrie:** The income after expenses is \$14,000. Then after depreciation, it would be \$13,000.

**Mr. Duszta:** I assumed that you don't live there nor do you get paid. You as manager do not get paid.

**Mr. Imrie:** No I don't get paid.

**Mr. Duszta:** You don't live in the building?

**Mr. Imrie:** No sir, but I am there every day. You can understand that if you have five or six buildings—we have a man who goes around them and looks after them, cuts grass, remove garbage, et cetera.

**Mr. Duszta:** Yes, I understand that. So that is counted in the expenses. I just wanted to clarify that.

**Mr. Imrie:** That is \$3,200 he gets for part-time.

**Mr. Duszta:** The building's market value, in your opinion, is \$175,000?

**Mr. Imrie:** That's right.

**Mr. Duszta:** I take it, then, that your calculation of three or four per cent on depreciation is the relation between \$14,000—how do you calculate that? I don't understand.

**Mr. Imrie:** No, that is one mistake. You're right, you picked that up.

What I am referring to now is that we have a building next door; the same, another eight suites. That \$14,000 applies to 16 suites, so we only paid about \$7,000 out of one eight-suite building and \$7,000 out of the other.

**Mr. Duszta:** Can I stick to this one eight-plex? You have a \$14,000 income—?

**Mr. Imrie:** No we don't, we have \$7,000.

Mr. Duksza: So you combined the two?

Mr. Imrie: I'm sorry about that. Yes.

Mr. Duksza: You have \$7,000 per year on \$175,000.

Mr. Imrie: That's right.

Mr. Duksza: You bought it you said 30 years ago. Did you pay entirely in cash for it or was there a usual mortgage or anything?

Mr. Imrie: No, in those days I couldn't get insurance and I don't have any insurance today—Mrs. Imrie or myself. And we don't have any pension schemes. So when the insurance companies wanted large premiums to insure me—because I have had a heart attack. I was on a trade mission to England for the Ontario government in 1970 and I had a heart attack so I had to give up business. Now I devote all my time to these little things here.

As far as the buildings were concerned back there, we paid approximately \$70,000 for an eight-plex 30 years ago. That was a pretty high price but these are large apartments.

But since we had valuation day, we have to start from there because we had to put a figure on for government purposes, and increases from that are taxable. So I am entitled to some return. Then also back in those days we had mortgages which I paid off—because we had no reason to become a large complex.

[11:45]

Mr. Duksza: So you didn't put down \$80,000 in cash. It was mortgage plus cash?

Mr. Imrie: I put \$80,000 into the building.

Mr. Duksza: But originally?

Mr. Imrie: Originally, yes.

Mr. Duksza: A full \$80,000?

Mr. Imrie: A full \$80,000.

Mr. Duksza: So you had no mortgage then I take it?

Mr. Imrie: We took the mortgages off. We paid off Manufacturers Life.

Mr. Duksza: But when you were buying it—I am sorry it is not clear to me—the building was worth then, on the market \$80,000?

Mr. Imrie: \$70,000.

Mr. Duksza: And you paid entirely in cash or not?

Mr. Imrie: Yes.

Mr. Duksza: Which mortgage were you taking off then?

Mr. Imrie: We took them off both buildings. We took them off originally because

I was travelling a lot and I was concerned that I would get into an accident. I had cash because I was in a business. I ran a business since 1946—my own business.

Mr. Duksza: Let me change the subject then and say, what do you think have been your capital gains from when you bought the building until now?

Mr. Imrie: To valuation day?

Mr. Duksza: To now. All right, valuation day.

Mr. Imrie: I would say from the \$70,000 probably to \$135,000. Because for years it wouldn't increase. Then all of a sudden it increased.

Mr. Duksza: One must always allow for inflation, so it is not quite as much as it was. But you actually paid cash for it, you say, and I don't follow this question of mortgage. Both buildings were in mortgage? To what extent?

Mr. Imrie: Around \$30,000.

Mr. Duksza: Each?

Mr. Imrie: Yes, we paid everything off.

Mr. Duksza: But the building partially pays off itself.

Mr. Imrie: Yes, over the years. I have no argument with—it is our problem, we are stuck with it. We just have to make a decision at some point—am I going to be a poor businessman? Most of the people you talk to have large mortgages or are refinancing, and this presents a problem. All I am saying is we have a property. We don't mind telling you how much money it is worth, and how much money we make because the rent review has all these particulars, and I am telling you how much we make. I am saying you can't make money on those buildings now unless you were to split them up.

Mr. Duksza: Excuse me, Mr. Imrie, I would have thought that you have made a significant amount of money.

Mr. Makarchuk: The option is open to you to make money, but you are probably very cautious about the whole thing. If that is the way you want to operate that is your option.

Mr. Imrie: That's right.

Mr. Duksza: It's a question of how much money.

Mr. Chairman: Excuse me. Hold it. We have three people talking at the moment. I think Mr. Duksza we know where you are going in your line of questioning. If you could perhaps—in deference to the other people who wish to come, and Mrs. Campbell



who also wishes to question—not wrap it up, but get specifically where you would like to go. The buildings have gone up in 30 years, that point has been made.

Mr. Duksza: Mr. Imrie in a way has said that this was a very low return on capital. But from the way he has answered my questions—the amount of money that the building is worth now; from the amount of money he has pulled in I would say that he has made a reasonable return on his capital. So that point is not relevant to dealing whether the six per cent or eight per cent increase in rents—

Mr. Imrie: I am not complaining about that.

Mr. Duksza: That is really all I hoped to establish, that you are basically not complaining; that this is in effect a reasonable return. You have suggested that some de-control should occur though you are in agreement in principle that some rent review should be there. That is all I wanted to establish.

Mr. Imrie: Yes.

Mr. Makarchuk: To clarify: On the \$80,000, you got a hell of a good return, right now, on the imaginary figure—

Mr. Breithaupt: Over 30 years.

Mr. Duksza: Mr. Breithaupt, if you are opening it up we will go through all the figures again, because he agrees with what I was saying.

Mr. Makarchuk: On the figures that you assume the buildings cost, you probably are making four per cent. You assume the market value is \$200,000. But on your original investment the return is different. The point is that you still have the option open to you to increase that four per cent investment.

Mr. Imrie: The basic problem right now is that no one would be stupid enough to buy those buildings with those returns. And there is no return there unless it is for a development.

Mrs. Campbell: If I could, I would like to go back to your original thesis. You are suggesting that this committee recommend that 10 units or under should be exempt. I must confess that I have not followed the argument for it. Perhaps I'm just being very stupid this morning, but I haven't followed your rationale for that position. Could you state it again for me?

Mr. Imrie: Yes, I would be glad to. Number one, in those pictures you looked at an eight-suite apartment, municipally known—

Mrs. Campbell: Yes.

Mr. Imrie: —but actually they are two four-suiter semis.

Mrs. Campbell: I understand that.

Mr. Imrie: The problem would be if this committee recommended that you go along with—

Mrs. Campbell: Six units.

Mr. Imrie: Six units—then I have a problem.

Mrs. Campbell: You might be caught.

Mr. Imrie: That's right.

Mrs. Campbell: Because you would have perhaps two four-suite units.

Mr. Imrie: There could be a legal question arise.

Mrs. Campbell: Yes, I understand that. I just want to be sure that was your basic argument, because you're really asking for a change in structure, if you like, to 10 units or under, rather than to six units or under. As I took it, and as I think now is clear, you are talking about it because of your own particular problem of definition—

Mr. Imrie: Yes.

Mrs. Campbell: —rather than a blanket kind of 10-unit exemption.

Mr. Imrie: I just wanted to point that out to the committee.

Mrs. Campbell: I just wanted to be clear, too, Mr. Imrie.

Mr. Imrie: But the main point, talking on behalf of small landlords, the few I know, small landlords are probably not as fortunate as we are; they have mortgages and I would think they have a very difficult time. By making it 10 or 12, there are very few 10-suite buildings, and I don't think this would hurt and I would question whether it would hurt the tenant.

I realize the tenant has a problem, but we couldn't double our rents. Even today there is a change taking place in the marketplace, as far as we can see, because we have had young people who have stayed with us, probably three or four years, and then they go out and buy a house. This was the pattern over the 30 years.

When rent review was implemented, the young people stopped moving, because housing was too high. But now we notice there is a little movement. The last time we had a movement, it was a young girl who was a ballet dancer. The couple bought a little house for around \$50,000; you know, it's a semi, but at least it's a start.

The young people have to have housing. You know, we talk about the older people; I'm 63 years old, I'm told.

**Mrs. Campbell:** In my riding, that isn't true. We have them at 107.

**Mr. Imrie:** Well, Jacob was 147. But what I am saying is that my concern—we all have concerns for certain people. I'm not an expert like this other gentleman in his feeling. I think we have expertise as far as young people are concerned. Young people have to have a start; then young people have to move on and buy a home. I know it's very difficult for them. I sympathize as a landlord, and I think probably most landlords do, but then there is this dollar question involved and do you move out at that point, as this gentleman was saying; do you stop being a poor businessman and move—

**Mr. Makarchuk:** I'm not saying you're a poor businessman—

**Mr. Chairman:** Excuse me, Mac.

**Mrs. Campbell:** If I may continue, Mr. Chairman, just a gratuitous statement: I think probably young people stopped buying houses because they couldn't afford the houses, and not because of rent review, with the greatest respect. Rent review, as you said, came in because of the sheer necessity.

**Mr. Imrie:** That's right.

**Mrs. Campbell:** However, your experience seems to have been reasonably good so far as your tenants are concerned, but you still point out the evils and inefficiencies, in your own words, of rent review as it operates today. You have heard the suggestion, at least today, that we should look at some other form of tribunal or some other form of decision-making body rather than rent review. Have you any comments on that, quite apart from your desire to be exempt?

Have you thought at all about another form of tribunal, be it provincial, be it municipal or whatever, which could give more overall review to all of the tenants in the building rather than to one or two on a more casual basis? Basically, a tribunal which could look at all of the aspects of landlord and tenant relations in one place, having in mind both the rent review procedures and the landlord and tenant matters which are not within the scope of rent review. Could you assist us in that?

**Mr. Imrie:** Well, I'm not an expert on large buildings, so I couldn't speak for large buildings.

**Mrs. Campbell:** I'm not speaking about large buildings, I'm speaking basically about

when you address yourself to the evils and inefficiencies of rent review, have you some alternatives to suggest, such as have been suggested to us?

**Mr. Imrie:** As far as I'm concerned, if you were to release our building and there was a tenant who was paying \$1,000 less in rent, I don't see why the other seven tenants have to bear the burden of paying for that one tenant. So therefore if the taxes and oil would come to six per cent, say, for that particular year, then I think the seven tenants should be adjusted down to two per cent or one per cent, and this \$1,000 or \$1,100 should be passed on to the one tenant. I'm not saying now whether they can afford to pay or can't afford to pay. It so happens that in our particular case the tenants can afford to pay, but I realize that whether a tenant can or cannot pay is a social question so I'm not going to address myself to that, but that's how I would solve it.

**Mrs. Campbell:** I wasn't asking you to address yourself to affordability. I was simply, I think, trying to see if we could get some kind of consensus out of these hearings about the rent review process as it is presently in place, and some alternative type of tribunal. I take it that basically all you want to do is to avoid the evils and inefficiencies of rent review, period.

**Mr. Imrie:** For the tenant as well as for myself.

**Mrs. Campbell:** Yes, yes.

**Mr. Imrie:** Because see, the seven tenants in our particular case are bearing the inefficiencies. We wanted that equalized when I went before rent review. I've tried the system; I've been there. Some people have never been to a rent review; I've been there; I've gone on appeal; I've gone back to rent review again and yet within six months I had two dollars knocked off that rent, that's \$1,000 a year less.

**Mrs. Campbell:** I take it, Mr. Chairman, that we have this consensus so far: That almost everybody would like to see the total building reviewed at one time or in one place to overcome inequities. But in the case of Mr. Imrie, he hasn't addressed himself to any alternative tribunal. Is that fair? Is that a fair estimation?

**Mr. Imrie:** That's fair, yes. Again, I address myself only to these six units. I don't think there would be any harm in taking it off, say, 10 units or less.

I do think that rent review was a necessity. It was an evil but we had to live with it. We had to go through this period where



there were certain inequities, for a tenant as well as a landlord. I think that some tenants have been bearing too much of a burden, as well as landlords. I think this has to be equalized out because at some point people cannot pay and this is what the governments have to realize. Municipalities are putting up taxes and the oil people and gas people are raising prices.

[12:00]

If they put a moratorium on taxes, and on oil and gas, we would not raise our rents. If they were equalized with this one tenant—we wouldn't have raised our rents. We would live with what we had, because you can't have everything out of life.

You have to take the good with the bad, but I say the big evils are these expenses. You see for years, you could go along and taxes didn't rise that much. So you go to a tenant and you may raise him \$5 or \$10 dollars, and you were sheepish about doing that.

Especially if small landlords have, say, another interest. For years I had a business. I ran this, but I ran it efficiently—and as I said we still run it efficiently—but the point is there's this evil and this inequality that should be straightened out. I think that's the desire of the members of the committee; and I think it applies to tenants.

Some tenants are paying too much and some tenants are paying too little; but then how do you work it out? We know we can't raise our rents beyond a certain point, because you are shrinking the market you are trying to satisfy. If you put up an apartment at a certain price, say you put up an apartment at \$500; well who can afford that rent? Very few people.

Most young people can afford, especially if two girls team up together, two business girls, they can afford a rent of \$250 or \$300; and that's giving them a break. Instead of getting one apartment each, they get a two-bedroom apartment. Or a husband and wife who are working, young people who are working move in; they save a little and they try to buy a home. You have to appeal to a certain market, and we know what our limits are. Now it may be we aren't making the returns, but then we are not complaining about it.

**Mrs. Campbell:** You have satisfactory tenants.

**Mr. Imrie:** We are not complaining because that's our problem. It's our problem if we keep the building or sell it, and my tendency right now is I would keep the building because it's real estate and it's a little better than the dollar.

**Mrs. Campbell:** I take it from what you have told us that the rents on your apartments, in the buildings that you have covered, are by and large at \$349. For what, three or four-bedroom apartments?

**Mr. Imrie:** They are three bedroom, mostly; but they are not at \$349.

**Mrs. Campbell:** You gave us a figure of \$274 for the one tenant and said that that was \$75 less than the others.

**Mr. Imrie:** Yes, but then don't forget, all the apartments are not the same structure.

**Mrs. Campbell:** I see.

**Mr. Imrie:** Do you see what I mean?

**Mrs. Campbell:** Yes.

**Mr. Imrie:** That's the highest price in the building. We have apartments on the next floor down that drop. Then on the top, they are only so many square feet, and they rent in the neighbourhood of \$250. So there is that difference. These are unique apartments, they are not just—

**Mrs. Campbell:** I will bet they are; three bedrooms and four bedrooms at \$250.

**Mr. Imrie:** These have a den and they have a living room and a big dining room; the old fashioned type. They had maids in them at one time, when they were built 54 years ago; and they are in good condition, very good.

**Mr. Chairman:** Thank you, Mr. Imrie.

**Mr. Imrie:** Have you got everything?

**Mr. Chairman:** Thank you very kindly.

**Mr. Imrie:** Thank you very much.

**Mr. Chairman:** Colleen Swords from Parkdale Community Legal Services. Colleen, if you would be good enough just to say your name please, and who you are representing.

**Ms. Swords:** Yes, it's Colleen Swords.

**Mrs. Campbell:** Do we have a brief?

**Ms. Swords:** Yes, I sent it in last Friday. I don't know whether members of the committee have had a chance to read it yet or not; perhaps you would like me to go through it.

**Mrs. Campbell:** I don't have it.

**Mr. Chairman:** Yes; I have mine.

**Ms. Swords:** First, to introduce myself: I'm a staff lawyer at Parkdale Community Legal Services, which is a law office in a low-income area of Toronto.

**Mrs. Campbell:** We can tell right away that you're a lawyer.

**Ms. Swords:** After all the comments today, I'm beginning to wonder.



South Parkdale, which is part of the area we service, has a tenant population of 90 per cent. Our office has been there since 1971 and we've found that there have been thousands of landlord and tenant cases come through our office.

Because of the magnitude of the problem we set up a priority group in the office which deals with landlord and tenant problems. There are three priority groups and that is one of them. We found that the relation between the rights of landlords and tenants, the rent that the tenant pays and the adequacy of housing that the tenant gets in return for the rent that he's paying, is a crucial aspect in the lives of our tenants.

As the report before you today indicates, there is a myriad of issues and problems involved which require detailed and full attention. We're hoping that these hearings are only the beginning. In the conclusion, as I point out, we feel that as a law office our expertise also lies in the area of the draft legislation and we would like an opportunity to reappear before this committee or some other committee at that stage of the process as well as this policy stage to present suggestions that we might have.

Turning now to page three of the brief, I just want to point out that today we'll be talking about housing policy for low income tenants, the rent review process and the housing tribunal. I'll be back again on May 24 to talk about landlord and tenant problems, because I understand that's the way the committee has set up the process.

Underlying any discussion of rent review on landlord and tenant matters is the problem of adequate and affordable housing. That there is an affordability and adequacy crisis for our low-income clients we have no doubt. For about two weeks, in our office, we ran a brief sampling of clients coming in, and we found that 68 per cent of them were paying more than a quarter of their income on rent. As well, 25 per cent of them were paying more than 45 per cent of their income on rent. So the low-income people are really being hit badly in terms of the cost of their housing.

We felt that the statistics that are in the policy paper represent an average throughout the province, but they don't really indicate the seriousness of the problem for the low-income tenant. We can't accept the basic tenet of the policy report that the solution to the housing crisis is to make the building of more housing attractive to the private developer by ensuring an adequate return. Building and land costs have sky-rocketed to the extent that, at least for the low-income

sectors of the population, affordable housing is simply not compatible with an adequate return to the landlord.

We believe that decent housing is a basic human right. As such, the responsibility lies with the government to ensure that people have this right. This responsibility can be fulfilled by the government being more active in developing programs to provide housing.

For the low- to moderate-income sector of the population, the only solution we can see is for the government to directly provide housing and to invest more heavily in third-sector housing such as co-operatives and municipal non-profit housing. We recognize this solution is not without problems, but we feel it's a wiser investment of the public's money than merely to provide rent subsidies for tenants. In the short run, a rent subsidy to a low-income tenant is a definite advantage, but in the long run you're just subsidizing landlords, not assisting the tenants.

Therefore, our recommendations are twofold with regard to housing policy: One, that the government should directly provide housing for low- and moderate-income tenants; and two, the government should invest more heavily in third-sector housing such as co-operatives and municipal non-profit housing.

Turning to rent review, our basic position is that rent review must be continued and strengthened if tenants are to be protected from unjustified rent increases. We feel that rents will again sky-rocket if rent control is taken off or relaxed as is suggested in three of the options in the government's paper. We come to these convictions and concerns about what will happen if rent review comes off by our experience that landlords have already developed ways to circumvent the Act.

We've heard about one method today. A tenant moves out of the building. A new tenant moves in and the rent is raised without any notice being given, without any application to rent review. This is possible because there's no requirement that rents be listed in the building or that rents be listed in any central registry. This is happening constantly. We don't find out about it all the time because when one tenant moves out the new tenant often hasn't had a chance to speak with them. But in the cases that we have come across in which this has happened, rents have gone up 15 or 20 per cent at least in between tenancies. So that's one, and the most common method of evasion.

Another method of evasion that we've noticed in our area of Toronto is that of

converting unfurnished apartments into furnished apartments. The way we feel that it is an evasion is if the landlord says, "I am not renting out the furniture, it's a totally separate company." This can be disguised by a series of corporate manoeuvres, using different people who are friends or relatives as the directors of the company.

If in fact the furniture rental is not part of the rent, is not paid to the landlord and the landlord claims that it's not a condition of the tenancy, then the furniture rental is not governed by rent control and it can be set at any amount. It's very often difficult to establish whether or not the rent for the furniture is a condition of the tenancy, because when a tenant looks at a place it's already furnished. The landlord doesn't say to him, "In fact, it's not a condition of your tenancy that you take the furniture." It's just accepted.

By this method, a landlord can come down to the rent review board and say, "This furniture rental is not a condition of the tenancy" or—and sometimes "and"—"I don't charge for it. It's some other company totally separate from me."

Apart from the problem of rents going up through this process, we've found that it is diminishing the stock of housing for low- and moderate-income tenants in our area. As a result of that, we get back to our suggestions with regard to housing policy, that more housing does need to be built by the government for low-income people.

Another evasion of which we've had a lot in Parkdale is conversion to bachelorettes. You take an old house that's got, say three storeys. It was once a single-family dwelling; perhaps over the years it's become switched into two flats. A developer or someone will buy it up and switch it into 10, 12, 15 tiny units that are the size of an old bedroom. In one of the cupboards they'll put a bathroom, in another cupboard they'll put a small kitchenette and they'll rent that out for \$60 or \$75 a week.

That, again, is just incredible. It's not governed by rent review in the initial process, in that the landlord can charge whatever rent he wants as the base rent. The next year, if he wants a rent increase, he has to go through rent review or else just charge the guideline unless and sometimes they're relying on this evasion of the rent review Act—he can say that the unit did not exist at all before rent review came in and, therefore, is not now governed by rent review.

These are some of the ways in which landlords are trying to get around this—

by converting to kinds of rental that are exempt. As a result of this, we feel that if you increase the exemptions under the rent review Act, landlords will jump up and down and switch their buildings over to that exemption so they aren't governed by it.

Another concern we've had with the present rent review scheme is that it has been used as a method to intimidate tenants. The way this can be done—and I know of one particular building in which it's happened—is that tenants who are in a tenants' association are given notices of a rent increase greater than the guideline limit. Other tenants are just given the guideline rent increase. As a result of this, you're singling out particular tenants who've been active in a tenants' association and making them have to go down to rent review, making them have to fight for their rent level and putting on them the burden of any extra rent increase over and above the guideline.

So we get back to the suggested solution for that, which has been mentioned several times today, that rent review should really govern the whole building. Rent review should come up once a year, once every two years—whatever you want to set—for the entire building. Again, that problem will be eliminated.

We don't feel it's acceptable either to put the onus on the tenants alone to apply for rent review. We feel that this prejudices those who most need protection from gouging; that is the tenants who are unaware of or unskilled at asserting their rights.

Under the present scheme, tenants can apply for rent review of any rent increase, although with the requirement that landlords apply for rent increases of over six per cent tenants only need apply if they want to contest a rent increase at less than six per cent.

[12:15]

Our experience is that most tenants don't want to contest a rent increase when it's less than six per cent. One reason is that under the present legislation they risk the increase being raised even more than six per cent; and secondly, most tenants have only recently acquired some recognition that they have some legal rights and they aren't used to asserting them.

I'm turning now to the weaknesses of the present rent review scheme. We feel there are both administrative and substantive problems that have arisen in the past two-and-a-half years of rent review. We're citing these weaknesses, not to suggest that rent review be taken off but merely to suggest that it can be streamlined. Probably some of



the reasons there have been these problems is that the permanency of rent review has been uncertain and there have been budgetary problems. Until there's a firm commitment from the government that there is going to be a long-term program of rent review, we feel these problems are going to continue.

First, notices, or how the tenant finds out that there's going to be a rent increase: Under the present law, under the Landlord and Tenant Act, the tenant must be given a 90-day notice prior to the end of a lease or the end of the term of the tenancy. In other words, if he doesn't have a lease and he's on a monthly tenancy, he just has to be given 90 days' notice. That is a notice that is given for any rent increase, no matter what the amount is. If the amount is going to be over six per cent, the landlord is supposed to give another notice 60 days before the rent increase is effective that he's applying to the rent review office.

There are forms that are used for this. There is a form that is used for the 90-day notice, but we have found that not all landlords use it. As a result of that we get a variety of notices.

We've attached, as an appendix to the very end of our brief, a sample of a 90-day notice of a rent increase. It's quite confusing for a lot of tenants because it mixes up renewal of your lease with the rent increase notice, plus the fact you're supposed to pay the guideline increase until such time as the landlord gets a chance to go in to the rent review office. Our suggestion is that there be a standardization of the form for the notice period that would be as simple and straightforward as possible. We feel that the 90- and 60-day notice of rent increase could be combined in one and you could just have a 90-day notice of the rent increase if you were going to have this annual hearing. Our recommendation number three is that there should be one notice of a proposed rent increase, which must be in a prescribed standard form and given to all tenants in a building 90 days before an annual hearing for the building.

Next, I'd like to deal with procedure and the hearing itself. Once tenants do get the notice of the time for the rent review hearing, many are unable to attend because the hearings are usually held in the day and they are at some distance from the building. We found that when there has been an opportunity to have a rent review hearing in the area—sometimes in a school, sometimes in a room in a library or sometimes in the lobby of the building itself—there's been a

much better attendance at the hearing and the tenants have felt they've had a better opportunity to present their position.

At the hearing, under the present legislation the tenant doesn't have a right to counsel. This is before the rent review officer and not before the rent review board. In practice, some tenants have enlisted services such as ours or Metro Tenants' Legal Services and other services that exist throughout the province. However, as the law doesn't specifically provide a right to counsel, we found that some rent review officers give you a kind of quasi-standing before them. What happens is that you appear with a proxy from one of the tenants and you are considered to be, not counsel but just a proxy, a stand-in for one of the tenants. As a result of this quasi-standing, you get a variety of degrees of acceptance by the rent review officer.

It is different for the landlord, and I'm speaking particularly of big landlords. When I say big landlords, I'm thinking of landlords who own quite a few buildings. I'm not thinking of a small unit because some landlords own a single-family dwelling, but they might own 10, 15 or 20 of them. I don't consider them to be small landlords. The landlord will often appear with an accountant, or occasionally a legal representative. Fees for such appearances are allowed as part of the cost for the rent increase, so the tenant is paying for the landlord's representative.

Tenants themselves rarely have access to such high-priced help. Clinics such as ours have been of considerable assistance to tenants in this regard, but there just aren't enough clinics like ours and only a minority of tenants have access to such help.

We feel that a greater allotment of government funds should be made to the provision of legal services to tenants. The minister's power under section 19 of the Residential Premises Rent Review Act has not been used to our knowledge at any hearings at which we've been present to provide assistance to tenants. The present Act has a mechanism for it but it simply has not been used.

There has been a big and consistent problem of tenants obtaining the landlord's cost-revenue statement prior to the hearing. I don't know if people on the committee are familiar with it, but the cost-revenue statement is the landlord's financial statement which serves as the basis for the rent increase.

There's no set period in the Act or the regulations within which this must be filed



before a hearing. You're often in the position of receiving it the day before or two days before the hearing. If you're representing a number of tenants in the building you need an opportunity to get together with them to go over it, and to consult with other people who may be more familiar with accounting than you are. It's just not enough time when you only get it a day or two before.

We have found that the role of the rent review officer at the hearing has been ambiguous. It seems to be that of an inquisitor, yet the tenant and the landlord appear before him clearly as adversaries in interest. Claims by rent review officers that they will look after the tenants' interests are of little use when the rent review officers show little grasp of the principles of natural justice.

Furthermore, some rent review officers have manifested a reluctance to require more information, such as bills and books, to substantiate figures landlords are coming forward with in their cost-revenue statement. This particularly applies to maintenance costs. We very often find that a landlord will put down a figure of, say in a large 100-unit building, \$40,000 for maintenance costs. It isn't broken down and it's hard to substantiate unless the rent review officer requires more proof. An audited financial statement, when it is provided, means little to most tenants without access to an accountant.

Finally, the fact that many of the procedures and policies in determining a rent increase are not contained in the regulations or in the Residential Premises Rent Review Act prejudices tenants in that they have no access to the policies.

An example of this is amortization schedules, which rent review officers follow regularly with regard to what should be amortized and for how long—stoves get one thing, plumbing gets something else. These are definite schedules but they're not in the regulations and tenants, and landlords for that matter, don't have access to them.

There is no reason why schedules such as these, which are a set policy, should not be contained in the regulations under the legislation. Failure to include such policies and procedures in the legislation or regulations removes from the scrutiny of the public and the Legislature important aspects of the rent review process, that is scrutiny which could evaluate the policy in the first place and prevent its arbitrary alteration once it is in existence.

Having said all this, our recommendations with regard to procedures and hearings are as follows:

There should be an annual building hearing, held whenever possible in the evening and in the building or in a public building in the vicinity.

The right of tenants and tenants' groups to counsel should be set out in the legislation.

Professional, technical, accounting and other assistance should be made available to tenants under section 19 of the Residential Premises Rent Review Act.

The landlord's cost-revenue statement should be filed a minimum of two weeks before the annual hearing, failing which an adjournment should be automatically granted to the tenants.

The annual hearing should be conducted by a housing tribunal to be established, as will be outlined later on.

The rules, policies and procedures of the rent review program should be set out in greater detail either in the legislation or in the regulations thereunder.

**Mr. Breithaupt:** You mentioned the right to counsel. Who is to pay for these legal services that apparently are now in demand?

**Ms. Swords:** Presently, the Ontario Legal Aid Plan is funding some clinics under the clinical funding committee which is established under OLAP. We feel that more government money, or money under the Legal Aid Plan, could be provided to clinics such as ours or other clinics throughout the province which should be established. That is where this kind of legal assistance could be provided.

**Mr. Breithaupt:** There would not be a charge for the services as such to either party? Is it expected, for example, that the landlord in a smaller unit would have the right to have legal services provided at no cost to him as well?

**Ms. Swords:** In our area of town there is a service called Land'Aid which represents just landlords and it is funded by the clinical funding committee under the Legal Aid Plan. They won't represent Cadillac Fairview. Cadillac Fairview can afford its own lawyers. There are income guidelines.

**Mrs. Campbell:** Are you sure?

**Ms. Swords:** We have income guidelines as well and I think the same kind of thing could apply as under the present system.

**Mr. Chairman:** I will just make this observation. You are about to start a new topic and we are just about out of time. If there are one or two questions now, my second suggestion was that we start at 1:30 rather than, as the sheet indicates, at 2. No?

**Mr. Breithaupt:** May as well.

**Mr. Duksza:** I would suggest that we find out if Ms. Swords can come back. Can you come back?

**Ms. Swords:** Yes, I can.

**Mr. Duksza:** Then are we doing the presentation at 1:30 and at 2 are we doing our own committee stuff?

**Mr. Chairman:** No.

**Mr. Breithaupt:** Might I suggest, Mr. Chairman, that we do our committee things after the public presentation so that the public is not inconvenienced by our details?

**Mr. Duksza:** I agree.

**Mr. Chairman:** If that is agreeable, perhaps there are one or two questions now. We do have a few minutes. But then, Colleen, if you'd come back and then Mr. Krehm and Mr. Weidlin.

**Mrs. Campbell:** Mr. Chairman, I have questions but I would rather withhold them until the end of the brief.

**Mr. Hall:** I have one question. On page three of your housing policy for low income tenants you said "there is an affordability and adequacy crisis for our low-income clients." You said, "In a recent sampling of our clients we learned that 68 per cent of them pay 25 per cent or more of their net income on rent." I am interested to know whether you have any complete expense profile; whether you happened to do it that way. How much does your sampling of tenants indicate went for automobiles, for example? Did you happen to approach it in that manner?

**Ms. Swords:** No.

**Mr. Hall:** You just asked them how much their income was and how much their rent was?

**Ms. Swords:** That's right. That's the only thing we were asking.

**Mr. Hall:** You had no knowledge of their other spending priorities or other needs, eh?

**Ms. Swords:** No.

**Mr. Duksza:** I have a question, but later.

**Ms. Swords:** It might be that some of the questions people will have will be answered later on in the brief.

**Mr. Chairman:** Just on the same topic Mr. Hall raised, on page three again, net income on rent; was that the actual figure you did ask for, the net income?

**Ms. Swords:** We asked people to give us the net income; that is what they got after deductions were taken off. We didn't substantiate it.

**Mrs. Campbell:** Their take-home pay.

**Ms. Swords:** We didn't say to them, "Give us a sample of your pay slip" or anything like that.

**Mr. Chairman:** I just wanted to clarify that.

**Mr. Hall:** This was after income tax deductions were made?

**Ms. Swords:** Yes. We asked them what their take-home was. People who are on welfare and that sort of thing, which a lot of our clients are, there wasn't really a problem there.

**Mr. Laughren:** It is not related to anything you have said so far, but I may not be back here this afternoon. Have you run into situations where the building changes ownership and, because of the financing the new owner has to go through, costs rise dramatically as a result?

**Ms. Swords:** We found that the situations where the largest rent increases come in are situations like that, when the landlord is alleging a financial loss as a result of just financing a building. Later on in the brief we suggest that financial loss should not be something that is allowed as a cost pass-through to the tenants, in that we feel that they get their return on their investment through the equity that they build up in the building and also there have been cases in which landlords will just let a building run down and say, "I don't care, I'm selling it anyway."

**Mr. Laughren:** I know of a dramatic example that I encountered in which there was about 10 per cent paid down, the balance on two mortgages, first and second mortgages, and with a maturity time of only 10 years. So he had enormous front-end loading costs, if that's the right term, for 10 years—enormous—and the rents went from something like—it was a dilapidated old building that had been paid for 20 years ago, and the rents went from something like \$125 to \$250.

[12:30]

**Ms. Swords:** We've run across instances like that as well. As I said, that's when you get the most incredible rent increases, when you've got a financial loss like that.

**Mr. Laughren:** And they are allowed.

**Ms. Swords:** That's right; under the present legislation they are.

**Mrs. Campbell:** Just following that, there are cases in Parkdale where the landlord is actually using the rent structure to finance further investment in other real property, rather than the case where there is a change in the one property. They are going out to



buy other property, and really the end result is that the tenants in the first property are paying, in part at least, for that new investment.

**Ms. Swords:** Are you thinking of situations in which a landlord already owns two buildings and may be financing one building to subsidize another, or are you thinking of them selling one building so that they can go off and buy another?

**Mrs. Campbell:** No. I'm thinking of them maintaining a building and going out in the market to buy another building.

**Mr. Breithaupt:** They are doing so by placing a new mortgage at a higher rate of interest on the first building, perhaps, the overall costs of which will be borne by the first group of tenants, even though the benefit of the financing or the necessary increase in those costs is a decision of the landlord for other purposes rather than for the maintenance of that structure.

**Ms. Swords:** I haven't come across that, and I don't know that our office has at this point in time. That could partly be a problem, in that we just handle cases that are coming into the office; they could very well be buying a building in another part of Toronto which we just wouldn't be able to track down.

**Mr. Breithaupt:** Do you normally know if the various buildings are separately accounted for, even though they may have an owner who has a number of buildings?

**Ms. Swords:** They are supposed to be separately accounted for under the present legislation, but I know of one building in which a mortgage was put up, supposedly

for maintenance costs in that particular building, but you could see from the amount of the mortgage that it was incredible; the amount of money he got from it was just too much, much more than the actual maintenance that went into the building, so much that he must have been using it for some thing else. I do know of one situation in which that happened.

I know of another building in our area where there is a very low vacancy rate, very stable tenants, and then they have another building in a different part of Toronto where there is a much higher vacancy rate, with tenants in and out and the building isn't as well kept up. Yet those two buildings are on the same corporate structure. When we went down to rent review they filed a financial statement for the corporation that owned the two buildings. The rent review officer asked for a separation of the two and we couldn't get that audited. All we got was a split down the middle of most of the expenses, which was not an accurate reflection of the costs, in that particular instance.

**Mrs. Campbell:** Do you have many limited dividends in Parkdale? Or are you addressing yourself to that somewhere in this?

**Ms. Swords:** We talk about limited dividend buildings in the part of the brief that deals with coverage of the Act. Yes, there are some limited dividend buildings in our area and one in particular with which there have been major problems.

**Mr. Chairman:** Thank you, Colleen. Back here at one-thirty.

The committee recessed at 12:34 p.m.

## SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)  
 Campbell, M. (St. George L)  
 Duksza, J. (Parkdale NDP)  
 Epp, H. (Waterloo North L)  
 Hall, R. (Lincoln L)  
 Laughren, F. (Nickel Belt NDP)  
 Makarchuk, M. (Brantford NDP)  
 McCaffrey, B.; Chairman (Armourdale PC)  
 Samis, G. (Cornwall NDP)  
 Smith, G. E. (Simcoe East PC)

### Witnesses:

Beck, E., President, North Bay and District Landlord Association, North Bay  
 Imrie, J. W., Toronto  
 Swords, C., Parkdale Community Legal Services, Toronto









Government  
Publications

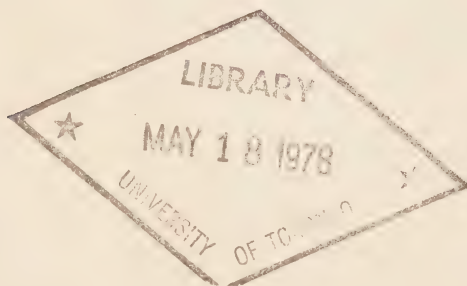
No. G-8

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### Second Session, 31st Parliament

Wednesday, April 26, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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# LEGISLATURE OF ONTARIO

WEDNESDAY, APRIL 26, 1978

The committee resumed at 1:46 p.m.

## TENANT PROTECTION (continued)

**Mr. Chairman:** We have several more people this afternoon. Also as a committee we have to make the final decisions on whether we're going to be heading out of town; and some other internal type things. Perhaps all of us should keep our eyes on the clock; witnesses, too, if I may ask them to bear that in mind, because there are others to come and perhaps we should tighten up our questions and our answers if we can.

This is not directed, Mr. Duksza, at you, but I wanted to say something in a general way. I have a lingering feeling that while we are all trying to get at this key question of rate of return and therefore when did one purchase a building and at what cost—I'm sensitive to that and it's a key area—but I wonder, since it's going to come up when we talk to larger landlords, whether small landlords might feel they should answer when they really shouldn't. I don't know. I'll just throw it up in the air.

**Mr. Duksza:** The point is, I would like to get the figures on certain claims—

**Mr. Chairman:** No question.

**Mr. Duksza:** I saw clearly that Mr. Imrie, and I calculated very rapidly, has had an 800 per cent return on his original capital. It is summarized as clearly as that, that's all.

**Mr. Chairman:** That's all? It's a sensitive area for all of us and the witnesses as well.

So, Ms. Swords, if you would carry on with page 11, determination of the rent increase.

**Ms. Swords:** Okay. We've found that the guideline limit of six per cent now has become a minimum rent increase for most tenants throughout the province. It's become so common now that a lot of tenants think a landlord is automatically entitled to that six per cent increase. This impression, that it's an automatic entitlement, has contributed to the fact that tenants don't very often initiate rent review of six per cent increases.

While in principle we would favour that there be no guideline and that each building be looked at separately, we found that a guideline provides certainty and sort of a

bright line test. It's easy and it's predictable for tenants, and we think that good law is a law that allows people to plan and to predict. But if there is going to be a guideline for those reasons, the reasons of certainty and predictability, then the guideline has to be a guideline that is determined each year and more accurately reflects justifiably increased costs.

I'm not an economist or an accountant or anything, but you could sit down and figure out from projected increases in taxes, projected increases in wages, utilities, that sort of thing, what a valid guideline would be.

It also seems to us possible that the guideline could be a sliding one. You wouldn't have to have just one single guideline; you could have a different guideline for different parts of the province, depending upon what the vacancy rate is; you could have a different guideline depending upon the age of the building to reflect the fact that for older buildings the landlord has already got a considerable return on his investment.

So keeping that in mind, we are suggesting that since this isn't an ideal world, a guideline probably should be continued, but a guideline that's set each year and more accurately reflects the realities of the situation.

The largest increases in rent occur when there is an alleged financial loss. Most frequently this financial loss occurs when a building has been sold, necessitating refinancing, or when interest rates rise considerably due to refinancing. It is our firm belief that financial loss and refinancing costs should not be a factor in determining a rent increase. There is no reason why the tenant should be paying these costs when they are deductions for income tax purposes and when landlords are earning equity in the building by paying off the mortgage.

Furthermore, the fact that financial loss and increased financing costs are permissible increased cost to pass on to tenants serves only to act as an inducement to refinance at higher rates or to sell a building rather than to invest in its maintenance. It also drives the sale price up since the purchaser can anticipate consideration of the purchase price in higher rent.

Under the present program, a landlord is permitted generally to pass on principal and interest payments on financing of the building up to 85 per cent of the value of the building. In our opinion, principal payments should not be passed on to tenants as the landlord is gaining equity in the building, and profits thereby, and is entitled to capital gain on the sale of the building. Only the interest charges are expenses in accounting terms and those are the only things that should be passed on each year to the tenant.

**Mr. Breithaupt:** Could I ask a question there? Following the policy options at the bottom of page 11, it sets out the matter of capital gains somewhere. The quotation is: "It is often believed that landlords do not need net revenues from a building's operation to make a return of investment, the capital gains on sale will provide the necessary financial reward. The fallacy in this view can be seen by posing the question: 'How much should a buyer be willing to pay if rent revenues were expected to equal costs in every future period?' The answer is that the rational investor would not pay anything for such a building."

Have you considered that point with respect to your approach concerning capital gain benefits that are presumed in each situation?

**Ms. Swords:** Are you looking at the bottom of page 11?

**Mr. Breithaupt:** On the bottom of the first column. That view would appear to be different from the view you brought forward concerning eventual capital appreciation or the return. I am just wondering if you had considered this point that is raised in this sentence?

**Ms. Swords:** I confess I don't get the point they are making there. Maybe you can make it more clear.

**Mr. Breithaupt:** It would appear from the comments that you made, that the landlord is, first of all, having deductions for income tax purposes—

**Ms. Swords:** If there's a big financial loss in the building, that is going to be deducted from his income for tax purposes. That's what I am talking about.

**Mr. Breithaupt:** The tax writeoff against other income; in the middle of that same column we are told that the federal government discontinued that one portion and then brought in other legislation. It would appear that that tax loophole has been closed.

**Ms. Swords:** It hasn't been totally closed. You can't write it off against other income,

like income from a manufacturing business or something; but you can write it off against other income from buildings. I mean it's not a total closing of the loophole.

**Mr. Hall:** If you have other income from buildings.

**Ms. Swords:** I am not sure on that. I am not great on income tax law. But I know that they did try to close up the gap to some extent but they didn't close it up entirely. What I am getting at is buildings where the landlord basically is not putting any money at all into the building; he's just letting it run down, then he sells it.

**Mr. Breithaupt:** Who would want to buy it if it's running down?

**Ms. Swords:** A lot of people will buy it, and often at an inflated cost, on the expectation that they can turn it into a different kind of building, a furnished building, a building that is going to bring more return to them. They can also pass on to the tenants, under the present system, the financing costs that are charged to them. So they are going to buy a building like that because they are getting an increased return under the present system.

**Mr. Breithaupt:** This depends on the market for that kind of accommodation, either now or in the future, and whether the tenants have alternate places.

**Ms. Swords:** Right now a lot of tenants don't have alternate places, that's right.

**Mr. Makarchuk:** The point is that he says their answer is that the rational investor would not pay anything for such a building. If the investor looks at a building, and he says his rent is going to be equal to his costs, it doesn't say anything about the appreciation in value of the building. The appreciation in the value of the building can still continue—

**Mr. Breithaupt:** There may be other prospects as well.

**Mr. Makarchuk:** There may be other prospects, yes; it may not appreciate, but that's the chance you take.

**Mr. Hall:** Mr. Imrie suggested this morning that in his opinion his building had gone down in value, it seemed to me.

**Mr. Duksza:** He said nothing of the sort, if I may suggest. He suggested—

**Ms. Swords:** No, it has gone up since he bought it.

**Mr. Hall:** In recent years he felt that it had gone down.

**Mr. Makarchuk:** The point is the fact that the building can still appreciate in value, and



the investor will look at it. That's the one thing. The other item—

**Mr. Breithaupt:** It's possible.

**Mr. Makarchuk:** It's possible, yes; it's highly likely, it's almost as good as Wintario revenue.

The other item we have got to look at in this is the nature of the income you can get out of your building, the fact that a percentage of that income is tax free in relation to how you earn your other income that is maybe taxable. That's a factor that should be taken into consideration in these things.

**Mr. Breithaupt:** How is that income tax free?

**Mr. Makarchuk:** You get five per cent depreciation; and if you are certainly losing money, you can depreciate it all the way to the bank.

**Mr. Breithaupt:** Your depreciation can only exist if you have made a profit from which to depreciate that figure.

**Mr. Makarchuk:** That's right.

**Mr. Breithaupt:** If there has not been a return on the income there is nothing to depreciate from.

**Mr. Makarchuk:** Wait a minute. It says if there is a loss you can depreciate to the loss value. Your rents are going to cover your interest, depreciation, et cetera.

**Mr. Breithaupt:** It's only if there's something left over that you can use that to depreciate.

**Mr. Makarchuk:** It's assumed in this that the rent revenue is expected to equal costs. Depreciation is a cost. What in effect you are doing, you have got that five per cent which is totally tax free.

**Mr. Breithaupt:** Depreciation is a net result if there is income left to use it. If there's no income left, you can't depreciate from nothing. You can't just take five per cent off if there is no income.

**Mr. Makarchuk:** We are quite aware of that. But the point is that the total revenue will cover all costs, including depreciation.

**Mr. Breithaupt:** Hopefully, yes.

**Mr. Makarchuk:** What do you mean, hopefully?

**Mr. Dukszta:** That is exactly what happens, Mr. Breithaupt.

**Mr. Makarchuk:** Hopefully, hopefully so; if you are going to go by that paragraph then depreciation is a cost.

**Ms. Swords:** I don't really have anything further to add on that. I want to move on now to projected increased costs.

Right now, a landlord can get an increase in rent based on projected costs. Since the landlord doesn't have to appear regularly before the rent review office, it is possible for him to project increased maintenance costs which are not actually affected; get the rent increased and not expend all the money. Unless a landlord reappears before the rent review office within a year or two the discrepancy never comes to light.

Part of the solution, again, is to have an annual hearing for the building. Projected as opposed to actual increased costs should only be allowed for taxes, utilities, hydro, oil; that sort of thing, when there is something to base your projection on. Projected increased maintenance costs should only be allowed in the amount of the guideline.

To cover any amounts projected but not spent, adjustments should be made to reflect this fact in the next rent increase.

Finally, many tenants complain about the discrepancy in rent levels for identical apartments in the same building. These discrepancies arise in many ways, such as the differing length of leases before rent review came on and past increases in between tenancies. However this discrepancy arises, there is no provision in the present rent review legislation to help to reduce these discrepancies. We would therefore encourage the development of some sort of a system to gradually eliminate the discrepancy.

[2:00]

Our recommendations, then, are that financial loss and refinancing costs be deleted as part of the cost passed through to tenants in rent increases. Projected costs should be allowed for maintenance only in the guideline amount; a guideline amount to be set each year, considering increased property taxes, hydro, oil, wages and maintenance costs. If projected costs are not actually spent, then adjustments should be made at the next rent review hearing to take this fact into account. Principal payment should not be part of the cost passed on to tenants. A system should be devised gradually to eliminate discrepancies in rent levels for identical apartments in the same building.

Turning to coverage of the Act; this deals with the present exemptions. Section 14 of the present Act and the definition of tenant restrict the coverage of rent review. Considering the importance of housing and the price paid for that housing, we see no reason for extending the exemptions under the Act in any way. We believe to do so would only invite landlords to convert to an exempt category. The exemptions in section 14(1)(aa) and (ab) for government hospitals, educa-

tional and charitable institutions and government housing, are predicated on the assumption that as these bodies are not private landlords the rent set will be fair. Unfortunately, this is a generalization that does not always match reality, nor does it provide a mechanism whereby tenants are given some direct control over the level of their rent and what expenses are alleged to justify increased rent. For this reason, we advocate that these types of housing be included in a system of rent review.

As for the exemption in section 14(1)(a) for non-profit housing projects and non-profit co-operative housing projects, we are content that this exemption remain, as long as there is a high level of input from the tenants living in these projects to the managing board as to the rent level is maintained. We submit that the exemption for buildings built after January 1, 1976, should be lifted. Ostensibly, the exemption is there to encourage developers to build rental housing. We doubt it has had that effect and we see no reason to continue that exemption. Developers would still be getting a return on their investment just as landlords owning pre-January 1, 1976, buildings are.

The definition of presidential premises in section 1(1)(j) should be defined to clearly include roomers. In our experience, roomers are the very people who most need protection against gouging.

Our recommendations are that there should be no additions to the exempt categories set out in section 14, and all exemptions from coverage by rent review should be lifted, except for that relating to hotels, motels or vacation homes, and that relating to non-profit housing projects and non-profit co-operative housing projects.

I wanted to make one further point on a matter that was raised this morning with regard to limited-dividend buildings. Presently, limited-dividend buildings are covered by the rent review legislation. There was some discussion as to whether or not they should be covered in that Central Mortgage and Housing Corporation is supposed to be ensuring that a fair rent is charged in the building, as the landlord is given a mortgage by them and is required to enter into an agreement that he will only charge rents that are deemed fair and reasonable by CMHC. We've found that CMHC hasn't been as diligent in checking into increased cost as the rent review office has been. In fact, CMHC very often approves rent increases that then go to the rent review office where those rent increases are lowered. We feel that rent review for that reason should

be continued for limited-dividend buildings.

As well, the way CMHC approves the rent increase does not allow for any input at all from tenants. It's simply done in Ottawa between the landlord and CMHC and tenants have no access to that information.

Turning to enforcement; there has been a reluctance in the area of the rent review program about prosecuting landlords for violation of the legislation. For example, when a tenant learns that his predecessor was paying less rent, he can notify the compliance officer at the rent review office, who will investigate by writing to the landlord, pointing out any illegal rent increase. That seems to be the extent of the enforcement. Little or no enforcement of the Act by prosecution of offences under section 7 goes on by the rent review office itself.

Once a rent level has been set, there is no central registry of rent levels and no requirement that rent be posted in the building to advise tenants what the legal rent is. Even if a tenant does find out about an illegal rent increase, it is difficult to get any redress. A prosecution instituted under section 17 of the rent review Act, even if successful, doesn't reimburse the tenant for the excess rent. The legislation doesn't specifically provide that a tenant can deduct excess rent from future rent payments. The tenant's remedy seems to lie in a small claims court action, where it can take six months to a year before the illegal rent increase can be recouped through a hearing. Meanwhile, the tenant is paying the illegal rent increase. Once the case is heard, tenants have the problem of explaining things to a judge who doesn't deal with landlord and tenant problems and rent review problems on a regular basis and is often totally unfamiliar with this legislation.

Legal counsel to explain legislation to the judge is not a commodity many tenants can afford. Our recommendation is that a greater allotment of time and money should be expended by the rent review program, on enforcement by initiating prosecutions against landlords, and the legislation should expressly provide that a tenant is not liable to pay any rent in excess of that ordered by the rent review office and also provide specific entitlement to deduct any excess illegal rent paid, as is now provided in section 7(3)(c) of the Rent Review Act. That is a limited section which doesn't apply in all cases of illegal rent increases.

A central registry of rent levels for each building should be established and enforced, and only that rent listed in the registry



should be chargeable. Rents for each unit should be posted in each building.

**Mrs. Campbell:** Can I stop you there? That's been raised several times in the past, though I'm not suggesting at these hearings. I have a very real feeling about posting the rents. I have no problem with the registry, but I really wonder whether you want to have every tenant's rent posted publicly in the building. Most of the tenants I know don't want that, although they do want accessibility to a registry.

**Ms. Swords:** The concern with having it right in a building lies in the fact that not every tenant finds out that there is a central registry. To have it actually posted in the building makes it obvious to a person who is looking in the building what the rent will be. Maybe five or 10 years down the line, people would suddenly realize there is a registry, but it's just not going to be accessible from the very beginning for everybody. The reason I have heard from tenants who object to rents being posted in the building lies in the discrepancies in the rent levels. Tenants who aren't paying as much as their next-door neighbour perhaps don't want it known that they're getting theirs at a cheaper rent. If a system can be implemented to reduce the discrepancy, that discrepancy will be eliminated.

As well, presently, a tenant can find out what the rest of the tenants are paying if the landlord goes to the rent review office. It's just a question of how obvious and how clear you want to make it to people what the rent levels are in a building. It's our feeling that if you really want to protect people from rent increases between tenancies, the best way to do it is to have it in the building. The concern arises from discrepancies, and that's something that we are advocating should be removed. I know about the concern you're raising because people have mentioned that to me as well, but we feel that if it's weighed, the counterbalancing consideration of preventing illegal rent increases is more important.

**Mrs. Campbell:** You're stating this is an absolute. What of the tenants who feel they have a right to some confidentiality and don't want it posted? For the most part I'm with you, but on that one I have very grave concerns. It's like freedom of information. I think you also have to keep in mind there are certain aspects that people are entitled to have remain confidential if they want to.

**Mr. Duksza:** Ultimately it will work for the benefit of tenants if the rents are posted. Some people will object, but once it's equalized they will learn that this is one way of

enforcing the provision that there should be only one increase per year and not otherwise. It will affect those people one day or another, I agree with you.

**Mrs. Campbell:** It may or may not, but I think they have the right to some discussion as to whether they want it posted or not.

**Mr. Duksza:** Unless you make the principle to control it much more universal, you can't have that many exceptions. It's the same with most people in the case of their incomes. You know the incomes of those who work for the civil service and yet doctors object to others knowing their incomes, largely because their hiding enormous incomes.

**Mrs. Campbell:** A lot of people don't want it known because they don't want people to know how little their income is.

**Mr. Hall:** Some people might not want their income tax to be known because they may not want it to be known they're generous and give to a charity or something. There are any number of reasons for privacy.

**Mr. Duksza:** I'm glad you're making that particular exception for those few people.

**Mr. Epp:** Despite the fact that my income may be public, I sure wouldn't want it posted out here that I make so much and Margaret Campbell makes so much. If people want to go to the registrar and find out or read the paper, that's fine. If I were a tenant, I surely to goodness wouldn't want it posted up in the building that I am paying \$305 and somebody else is paying \$355; I think that's not necessary.

**Mrs. Campbell:** All I am getting at is that I feel to say this is an absolute without any discussion with tenants is not something I find acceptable. I think if tenants in a building are in agreement then by all means post, but I think there should be a registry maintained so that it is available. Perhaps notice of the registry could be posted but not the individual rents, unless people are prepared to accept that. That's all I'm saying. I would like some alternatives left to people.

**Mr. Makarchuk:** The thing here is the accessibility of the information. If you had the registry in the building available in some room or at the landlord's, and if you could go down and look at it I don't think that would be a problem, and perhaps you would agree to it; but if you had the registry or the rents located somewhere with the rent review officers in Queen's Park and somebody had to come from Etobicoke or anywhere else to try to find it—

**Mrs. Campbell:** That is a different matter.



**Mr. Makarchuk:** —then it becomes a problem. It's a matter of making it accessible. The suggestion here is that if you post it in the building it will be accessible quite easily for everybody. I should also point out to all those people out there, if they want to know how much anybody in the government makes the information is available. They can buy the public accounts book which is available at the book store.

**Mrs. Campbell:** It won't tell what your income is.

**Mr. Makarchuk:** But it will tell how much money you are getting from the government.

**Mrs. Campbell:** From the government.

**Mr. Makarchuk:** They'll know how much Crown Attorneys make and so on.

**Mrs. Campbell:** From what source?

**Mr. Makarchuk:** It's all there.

**Mr. Breithaupt:** It's like the OHIP lists. It's rather relevant at the time.

**Mr. Epp:** They know. That's why they are sitting there and we are sitting here.

I have another question. I was just wondering with respect to your comments on page 15, the second paragraph, whether they are inconsistent with your earlier position that the government should provide more housing.

**Ms. Swords:** I don't think they are inconsistent. In one we are talking about the provision of housing and in another we are talking about the management and the continuing setting of the rent level in that housing. We are suggesting that tenants should have some input knowing why their rents are going up whatever amount they are going up. I don't see a conflict.

**Mr. Duksza:** I don't follow your point. Could you explain it?

**Mr. Epp:** It's on page 15, the second paragraph. I think earlier she indicates that the government should provide more housing. I'm just wondering whether that isn't inconsistent here.

**Mr. Duksza:** What is it inconsistent with?

**Mr. Epp:** She speaks about the exemptions in section 14(1). She says that the exemptions for government hospitals, educational and charitable institutions and government housing are predicated on the assumption that as all these bodies are not private landlords the rent set will be fair. She says: "Unfortunately, this is a generalization that does not always match reality nor does it provide a mechanism whereby tenants are given some direct control over the level of their rent and what expenses are alleged to justify in-

creased rents? For this reason, we advocate that these types of housing be included in a system of rent review."

**Mr. Duksza:** What has that to do with it? It's comparing oranges and apples.

**Mrs. Campbell:** If you're talking about Ontario Housing where you've got rent schedules, I suppose that is part of it. That was one of the reasons it was essentially exempted, because it was felt there were subsidies already built into the system.

**Mr. Duksza:** But I don't think Colleen has brought that up.

**Mrs. Campbell:** No.

**Ms. Swords:** We are not suggesting that should detract from the amount of housing that is provided by the government. As I said, it is a question of the management once the housing is built. I don't think it is contradictory.

**Mr. Breithaupt:** But at this point you would include, therefore, Ontario Housing projects in a formal way under the Act.

**Ms. Swords:** Yes.

**Mr. Breithaupt:** So that information might be considered to be more readily available or more easily available.

**Ms. Swords:** We are suggesting as well—we'll come to it a little bit later—that there be a housing tribunal set up, such that at a hearing tenants not only can find out about why their rent is going up but they can also talk about the maintenance level in their building at the same time. That would be a consideration that would be dealt with at the same time.

**Mr. Breithaupt:** You would want Ontario Housing included in that opportunity.

**Ms. Swords:** That's right.

[2:15]

**Mr. Chairman:** May I ask you if you would clarify something, Colleen, on page 16, the top paragraph about exemptions being lifted on new buildings: "Ostensibly the exemption is there to encourage developers to build. We doubt it has had that effect and see no reason to continue." But it is the last sentence that bothers me most, "Developers would still be getting a return on their investment just as landlords owning pre-January 1, 1976, buildings are."

**Ms. Swords:** What I am suggesting there is that the first time the building goes up in the market a rent has to be set for the unit, and there has been some discussion of how that could possibly be set. But presumably in the setting of that figure, some con-

sideration will be given to a return on the dollar.

I am not talking about low-to-moderate-income tenants who, as I said at the very beginning, I don't think can be provided for any more by the private sector. But I think that when the rent level is first set for the apartments in the building that kind of a factor could be taken into account.

**Mr. Chairman:** And other factors.

**Ms. Swords:** And other factors as well.

**Mr. Breithaupt:** The inclusion, then, of those buildings, and presumably of all future rental units in the province, will encourage construction of more units?

**Ms. Swords:** It is difficult to say what encourages construction of rental units.

**Mr. Breithaupt:** Presumably the market; the availability to make a profit, I suppose, would be important.

**Ms. Swords:** Except that under the present rent review legislation that section was put in, and the statistics I have seen don't substantiate that there has been an increase in rental housing being built. Developers consistently say "we won't build because there is rent review", which is silly under the present Act in that it is exempt. But they seem to have this feeling that if they can say that they won't build because of rent review then that is a justifiable reason for not building.

**Mr. Breithaupt:** But their other feeling might be that the exemption, once given, can easily be taken away, and therefore they're trapped in the middle, with the same sort of result. That, now, appears to be logical.

**Mr. Hall:** Your solution is bringing home the very fear that they have expressed.

**Ms. Swords:** As long as the exemption exists they're going to have that fear and you're not going to take that away from them. So you may as well make it clear and make it definite now that they aren't exempt, because they say, "We have this fear that we won't build because we have a fear that we will, at some future point, no longer be exempt." So we should make it definite and say, "You aren't exempt anymore." Because as long as they are going to say "we fear that we won't be later."

**Mr. Breithaupt:** They'll certainly know, I'll agree with you on that.

**Mr. Makarchuk:** We should recognize in this discussion that in the first place, even if you took the rent controls off and the buildings go up—assuming that's correct and

there's nothing to indicate that it is—that still does not provide affordable housing.

What we're concerned about here is to provide affordable housing for people and the means with which they can secure it. The suggestion is that government has to build the housing because there's certainly no return on investment for private enterprise to do it.

The other thing is to try and control the existing rent. But to open it up, and to assume because you open it up rents will drop, is a lot of bull. Rents are not going to drop. Our concern is with the people out there right now who cannot afford existing rents, the cases where tenants are putting 68 per cent of their income into rents. What do you do for them to ensure that we have housing at a price that people can afford going into the future?

**Mr. Hall:** Believe me, Mac, I think we're all concerned about it. It's a question of what the answer is, and productivity in units is certainly somewhere in the piece. I'd like to understand the positive motivations towards an increased number of apartments that are available.

**Mr. Makarchuk:** All right, but if you're going to build units today you're going to take into account today's costs and so on.

The eventual rental fees are such that people will not be able to afford them because they'll be higher than what they are on units that have been built in the past.

**Mr. Breithaupt:** So there's no hope for new construction.

**Mr. Makarchuk:** There is hope or there isn't hope. The point is that opening it up to new construction is not taking care of the affordability of housing, and our concern is the affordability of housing.

Interjections.

**Mr. Makarchuk:** Rent control did help to alleviate some of the problems and this is what we're arguing.

**Mr. Duksza:** I don't think the new construction has been stopped by the present Act because new buildings are exempt from it. That is a phoney excuse given by developers and others of why they're not building; it's a totally phoney excuse. For us to be concerned over it is—

**Mr. Hall:** Why aren't they—

**Mr. Duksza:** Let me just finish. As far as I'm concerned, according to the evidence of the last three or four years on what's been going on in building this is not the factor which governs the market in terms of building. There are other factors. And for us to



rely only on that shows a particular bias, because I don't think it is related to rent.

The other point Ms. Swords brought out I think was an interesting point, at least in my interpretation of what she said, that the private market itself has basically failed to provide affordable housing because it is not seen from the point of view of providing affordable housing but is seen from the point of view of making extortionate profits. The sooner we face up to that, the better we'll be.

That brings us to the point that it may be the responsibility of the government of the whole province to move directly into the housing field and define housing as a social need and not as another part of a productive sector for the benefit of a few people.

**Mr. Breithaupt:** You may well feel that it's a matter of extortion. On the other hand, if units are not being constructed for rental purposes, and I would think our consultants would be able to find out for us just what construction of rental units has existed compared with the condominium market—

**Mr. Duksza:** Even if it's true that there is less construction going on, the main point is that you are assigning a causal relationship between rent review and building, which I'm saying is wrong methodologically. That is what I'm saying.

**Mr. Chairman:** Can I just interrupt here? These internal things will go on when we get down to making a report on June 1, when and as committee members we will have to speak to all of these.

**Mr. Duksza:** I'm terribly sorry.

**Mr. Chairman:** We've all been good at not letting our biases show.

**Mr. Duksza:** There is no bias.

**Mrs. Campbell:** Mr. Chairman, I'm sorry if this is a ruling but it does seem to me that we have heard from one side in this matter. I am concerned, quite candidly, at the suggestion of putting new units under rent review. It is not a simple situation from my point of view. I don't buy the fact that because of rent review we don't have more housing, but I do buy the fact that the financing has been extremely difficult because of federal legislation and other factors and I am concerned that any of these uncertainties move to a picture where people are far more prepared to put their money into something which is more assured.

I don't think we're getting affordable housing in new housing since rent review. I totally endorse that position. I think that if somebody is planning a unit and if it's a

big apartment, he's looking down the road to several years before he gets it off the ground. He's looking at things like the planning procedures. He's looking at the costs of financing during that period of time. If at the end of the road you've also put rent review on it, then I could see that it would be the final axe to a long project.

I am not here in support of developers, that has not been my image at all, but I think there is such a thing as being a little realistic in terms of the time it takes between the time a project is on the drawing board and the time it gets to the point where it is ready for occupancy.

I would be concerned about it as the kind of final cap on the whole process. I am not saying I have made up my mind. I'm just saying I want to enter into this debate because I don't think it was clearly one-sided as has been demonstrated by some of the statements which have been made.

**Mr. Chairman:** Can I just interrupt? This whole question about rate of return and affordable housing is central to what this committee is about. You're right, Mr. Makarchuk, everybody here is preoccupied with the same concerns and the same time limits, but for the moment, surely to God, we've got a pressing thing here. We've got the witnesses who have prepared their briefs to come and speak to us today. We can go on and discuss this at great length and we will, but if I may, let's get back to Colleen and proceed ahead. I won't interrupt either.

**Mr. Makarchuk:** All right. Shall we make a decision, then, that we go through the brief and then question it? There are items there that I did not question because I thought that was the way we were going to operate.

**Mrs. Campbell:** Me too.

**Mr. Chairman:** Same here. Colleen, proceed right ahead, please.

**Ms. Swords:** With regard to the Rent Review Board, many of the problems I've already mentioned persist at this level. In addition, there has been a further problem in terms of the part-time nature of the constituents of the board. Having a hearing de novo would be an unnecessary duplication if the first hearing before the rent review officer had the protections built into the board by virtue of the Statutory Powers Procedure Act and the constituent members of each board maintained at that lower level. A recommendation is that rent review applications should be heard by a permanent full-time tribunal, as set out later on in the brief.



With regard to repairs: the final, recurring and major complaints that tenants have about rent review is that it fails to tie in adequately with the conditions in the building in terms of the level of maintenance and services. Theoretically, if the level of maintenance deteriorates, there has been a discontinued service or thing which should be deemed a rent increase under section 9 of the present Rent Review Act. In practice though, when tenants begin to complain about a deterioration in maintenance, they are advised that this is not a proper forum to handle such matters and to seek relief from the county court. The relation between rent and maintenance level is obvious to tenants, as it should be to all. It is another proof of the need for a central tribunal with jurisdiction over all matters of concern to landlords and tenants.

Under the present rent review system, if a building has been allowed to deteriorate over some years, yet rents have gone up over the years, tenants feel they should not be required to pay a large increase the year the landlord starts repairing the deteriorated conditions. Nor do they understand why they should be paying such high rents when a building is in disrepair. A better system of amortizing higher increased maintenance costs which have arisen due to the previous neglect of the landlord should be developed.

**Mr. Breithaupt:** This is your annual maintenance expectation?

**Ms. Swords:** Right.

And we will be dealing in more detail with the problem of repairs when we come back on May 26 to deal with landlord and tenant issues.

Our recommendations are that the level of repair in the building should be directly tied into the rent level. Provision should be made for the same body to hear an application for a rent increase, as hears an application for repairs or improved maintenance standards in the building. No rent increase should be allowed if there is a violation of municipal housing standards outstanding. A better system of amortizing maintenance costs incurred, due to previously allowing the building to deteriorate, should be developed.

The final section I would like to deal with is this whole issue of a housing tribunal. In general, a tenant in Toronto has to go to a variety of bodies to get some redress with landlord and tenant matters. He goes to county court if he has got a problem of repair in the building; he goes to provincial court if there has been an offence under the Landlord and Tenant Act; he goes to the rent

review office for a rent increase determination; he goes to the housing standards appeal committee of the city of Toronto if there is some dispute over the municipal housing standards bylaw and he can also go to small claims court if there has been a breach of a lease or if he wants to get back an illegal rent increase.

This dispersal of jurisdiction is counter-productive, as no one body gets a total view of the situation or gets an opportunity to develop expertise in the area. The lack of expertise manifests itself in conflicting, inadequate decisions. The variety of bodies dealing with landlord and tenant matters creates unnecessary delays and frustrations. The increasing volume of disputes in landlord and tenant matters has put a strain on the courts set up to handle other problems. The time has come to recognize the impact on people's lives of the landlord and tenant relationship and the need to provide a forum that focuses solely on housing problems.

We are concerned that the protections of due process inherent in the court be maintained, but are cognizant of potential constitutional difficulties in the province setting up a housing court. We therefore strongly advocate the establishment of a housing tribunal as part of a residential tenancies commission. The broad outlines for such a commission that we envisage are as follows:

Due to the varying degree of importance of landlord and tenant problems, there should be a two-tier process. The first tier would be less formal and more geared towards an arbitration sort of model than the second tier. Both tiers could consist of thoroughly trained people in the areas of landlord and tenant law, accounting and the principles of natural justice. Evictions, maintenance problems, the rent level and prosecutions for violation of the law, we consider to be the most serious areas of the landlord and tenant relationship.

[2:30]

Orders as to rights in these areas should be made only by a formal housing tribunal bound by the Statutory Powers Procedure Act to ensure adequate protection of the rights of both parties. Decisions of the housing tribunal should be recorded in writing with reasons for the decisions. They should then be indexed and kept in a central registry where all those appearing before the tribunal would have access to previous decisions for reference.

The housing tribunal should consist of tenant representatives and landlord representatives. A quorum for each hearing should be one of each representative and a neutral

chairman. Appointments of tenant representatives should be made on the basis of nominations by tenants' groups in all areas where tenant organization exists. All appointments should be full-time and for a period of five to 10 years.

Provided all the above protections are built into the tribunal, its decisions should be final. Appeals on grounds of lack of jurisdiction or violation of the principles of natural justice would, of course, still be allowed through the Judicial Review Procedure Act to the divisional court.

The myriad of other landlord and tenant problems, such as minor breaches of a lease, breaches of privacy, security deposits and interest thereon, should be heard by an impartial person, a residential tenancy officer, who would attempt to effect a settlement acceptable to both sides which would then be embodied in an order. Failing settlement, the matter could automatically be referred to the housing tribunal. As well, either party should be able to appeal a decision of the residential tenancy officer to the housing tribunal should they find it unacceptable in practice.

Consideration should be given to setting up a well-staffed enforcement branch of the commission which would actively investigate violations of orders made by the housing tribunal and prosecute for violation of the relevant Acts or orders when indicated. As discussed above, under rent review, there is a problem at present with tenants having some rights but little effective way to enforce them. This must be remedied.

On May 24, when we appear again, functions of the tribunal with regard to other landlord and tenant matters will be elaborated in more detail, but we hope that this provides a general outline. I won't go through all the recommendations under that section because I've already mentioned them in the brief.

Just in conclusion: Housing is too important a right of the citizens of Ontario for its elected representatives to not fully protect this right. We no longer live in feudal times when landlords could exact whatever price they wished merely because they owned the land. Tenants need the protection of rent review and will insist it be continued. That's a mistake in your copy. It shouldn't say "or" rent review, it should say "of" rent review.

It must be emphasized that the rent review program as it stands with all its inadequacies is much to be preferred to any weakening of the legislation. However, our proposals today are designed to suggest broad outlines for areas in which the present rent review

scheme can be tightened up, streamlined and improved for the benefit of all.

We have tried to be as specific as possible in our suggestions in the absence of draft legislation. We think it imperative that we and other groups, be given an opportunity to again present a brief, once the necessary legislative changes are drafted. As a law office, we feel our expertise can be useful and effective at the draft legislation stage of the process as well as at this policy stage. We therefore trust that this is but the beginning of public discussion.

Mrs. Campbell: I guess I want to go backwards a bit on this. First of all, in your general statement about the continuation of rent review, I assume you are thinking in terms, as any of us does, of our experience. And as your experience is in a municipality such as Metropolitan Toronto, I would assume that in discussing this, you are not speaking beyond the scope of Metropolitan Toronto.

Ms. Swords: Our experience does come from Metropolitan Toronto so I can't speak for the other areas, but I would assume that other large cities in Ontario are having similar problems to those in Metropolitan Toronto.

Mrs. Campbell: I think what I'm getting at is that there seems to be some suggestion that I've had—and I don't know how useful it is at this stage—that there are areas of the province where it is seen that rent review may not be an ongoing necessity at this point. So we can take it that you're speaking in terms of Metropolitan Toronto and, I suppose by association, of any of the large municipalities in the province.

Ms. Swords: Well, Metropolitan Toronto is part of the province—

Mrs. Campbell: Oh, without question.

Ms. Swords: —and what I'm thinking is that if you did enter into some sort of system of exempting parts of the province, what you could end up with is the same kind of thing as exempting classes of tenants; i.e., all the investment in terms of building housing is going to go to other parts of the province. I don't think you can look at Metropolitan Toronto divorced from the rest of the province, but I did suggest in terms of a guideline that it could be considered that in other areas of the province they don't have as many problems and you might want to reflect that fact in the guideline.

Mrs. Campbell: Then on the question of your housing tribunal—and I must congratulate you; I think you've thought this



this through very well—but I take it that in your suggestion—

**Mr. Dukstza:** Praise from a co-professional is praise indeed, I suspect.

**Mrs. Campbell:** Well, I do happen to believe that lawyers serve a useful purpose in our society, and I think that if praise is due, praise ought to be given regardless of the fact that it may come from one of the sort of lesser breeds without the law.

**Mr. Dukstza:** It's even more valuable coming from you, Margaret.

**Mr. Makarchuk:** They're certainly not an endangered species.

**An hon. member:** That's one of the problems. Perhaps we should have some control there.

**Mrs. Campbell:** In dealing with the submission on the housing tribunal, in the event that we could overcome the constitutional difficulties, and we're all aware of those, I presume you would not find offensive the suggestion either of a provincial or municipal tribunal with full powers to deal with all of the landlord and tenant problems, provided it were kept at least initially in a very informal fashion and without the costs implied in most court procedures.

**Ms. Swords:** We're concerned that a tribunal can be too informal, particularly, as I mentioned, in the areas of evictions, rent increases, those sorts of things.

**Mrs. Campbell:** Yes.

**Ms. Swords:** The danger, if you get a tribunal that's too informal, is that rights just aren't protected adequately enough. On the other hand, the county court, which is dealing with evictions right now, is totally overburdened; it seems that landlord and tenant problems have got grafted on to them.

**Mrs. Campbell:** It seems always to have been in this area; it's been an area which I don't think the county courts have ever joyously embraced, shall we say.

**Ms. Swords:** I think that's a fair statement.

**Mrs. Campbell:** I wasn't thinking in terms of the procedures, of formalities of hearings and this sort of thing; I was thinking rather, I suppose, in terms of the family court unification situation where the pleadings, that kind of thing, are kept to an informal kind of procedure but still with the formality of the court itself. Am I making myself clear?

**Ms. Swords:** There are ways in which the tribunal can be more streamlined without removing the rights, the protections that we think need to be guaranteed. I think you are right there. In terms of having a tribunal,

another reason we suggested that is that it does give you a little more flexibility in terms of having that two-tiered process, having it part of a larger residential tenancy commission that will have the full scope of things. I think traditionally tribunals are set up because of the constitutional problem in setting up a separate court and also because you can build in a greater expertise if you have a specific tribunal that deals with problems in that area. That has been the experience, for example, with the Ontario Labour Relations Board. So that was another reason we were suggesting a tribunal as opposed to possibly setting up a division of county court that dealt only with housing problems.

**Mrs. Campbell:** I wanted to pursue it because it's interesting to me too that into the functions of such a tribunal you have apparently incorporated code violations. These are basically housing code violations or building code violations. I think the city of Toronto has been anxious to see a special court which would deal with all types of code violations, including zoning. Whether that could be encompassed with the work that is already here, I don't know. Have you any opinion on that?

**Ms. Swords:** I wasn't actually thinking of zoning violations.

**Mrs. Campbell:** I'm talking residential zoning codes.

**Ms. Swords:** What we were thinking of in terms of municipal violations in particular was the housing standards bylaw—

**Mrs. Campbell:** That's right.

**Ms. Swords:** —which really deals with the state of repair of the building. In that way it's kind of an impartial standard under which a tenant can say, "There's a violation of this housing standard. It's not just me who says this building isn't in a good state of repair." It fits in very well with the level of maintenance, the repair level in the building, which we are suggesting should be something that this tribunal would have powers over. That's why it seems to fit in automatically with it in terms of housing standards bylaws. I confess I hadn't thought about residential zoning bylaws. Again, when you get into zoning you think of the Ontario Municipal Board and what its jurisdiction might be if you're thinking of changing zoning.

**Mrs. Campbell:** No, no, I'm not thinking of changing zoning; I'm talking about zoning violations, which would be in a residential context, not in a commercial context. It's just that I'm trying to sort out what the city itself sees as a type of tribunal and what is being suggested here. I think the input of



people who have been working in the field is important.

**Ms. Swords:** Our suggestion really was directed more to municipal housing standards, as well as standards with regard to fire alarms, that sort of thing.

**Mrs. Campbell:** But you'd also be involved with building code violations as well.

**Ms. Swords:** Yes, and as well, the standard of elevator maintenance; that's another big concern of tenants. There are quite a few things dealing with the level of maintenance in an apartment building that this tribunal, to be really effective, would have to have some jurisdiction over.

**Mrs. Campbell:** I'm interested that you mentioned the elevator violations because in my riding I really have to say that I think one of the major problems with the elevator systems is that they have been geared to a certain occupancy, and where there's been tremendous doubling-up because of awful rent increases, it has put pressures on the systems and I don't know how you sort that one out. Where you have four people living in an apartment which is designed for two at the most, automatically you're putting on pressure, particularly if it's a computerized system.

**Ms. Swords:** We're back to the problem that rents are very high for tenants right now and that's the solution that they're coming up with.

**Mrs. Campbell:** You're not telling this committee anything it doesn't already know, I think, on that one.

On the question of costs, I'd like to go back to our somewhat brief discussion so far as the removal of rent controls from new buildings is concerned. I haven't been building buildings, but I have to accept one statement and that is that most developers seem to say they have very little return on a building, in profits certainly, for about five years down the road. If you remove rent review, would that be taken into consideration in conjunction with your earlier recommendation that financial loss or cost would not be passed through?

**Ms. Swords:** I think if you're going to remove it for new buildings, some method would have to be developed to set the rents when the building first came on the market, and some idea of what a fair rent for that unit would be is going to have to be developed. It's possible that that kind of consideration could come into effect in setting that rent, because right now when a building comes on the market, any rent at all can be charged; it doesn't really have any effect.

Not only can any rent be charged, but it can't be reviewed in the future. So once that building is built, two or three years later that building is still not covered by any rent review.

[2:45]

**Mrs. Campbell:** I'm thinking of the three new towers in my riding. My riding is one of the rare ones that keeps on getting new apartments, whether we have rent review or don't have rent review or whatever happens; it's the exception, I think, to all the known rules. But it's been my experience, even with the new towers, that while rents are high, without question, there seems to be some kind of a market control in them. I expected them to be infinitely higher than they are at present, and there must be some controlling factor, don't you think?

**Ms. Swords:** We're not just thinking of the initial rent that's set, either, though—

**Mrs. Campbell:** No.

**Ms. Swords:** —we're thinking of a body that will be able to hear concerns from tenants with regard to the level of maintenance in their building at the same time as a rent increase comes on. We're also talking about a year after the building is built, or two years after the building is built, or three years, et cetera. Concerns like that are going to arise, and if they aren't controlled in any way by rent review, there's not going to be any forum for those tenants to raise their complaints that the rent increase has to be tied in somehow with the maintenance level. I just couldn't think of any other way of getting at that, short of bringing in new construction.

**Mrs. Campbell:** So that in a sense what you are saying is not so much that you want to control the rents on these buildings, as to give jurisdiction to a tribunal to be able to hear complaints of other natures as they reflect themselves in the tenants' perception of a building.

**Ms. Swords:** The tribunal would also be dealing with rent increases, but part of a rent increase is what you're getting for the rent you pay, so to that extent the tribunal will have jurisdiction over rent increases on new buildings as well.

**Mrs. Campbell:** But your initial concern is more in the area of having ongoing accessibility for tenants for maintenance features—

**Ms. Swords:** And also input into the rent level that is being set for their building.

**Mrs. Campbell:** At what point would they have that; initially, before they go into the building?

**Ms. Swords:** Obviously not, because the building is not occupied.

**Mrs. Campbell:** That's right.

**Ms. Swords:** So that's the whole point. It's going to be an ongoing sort of process for a new building.

**Mrs. Campbell:** I think I'll stop there. This is a very comprehensive brief and I appreciate it.

**Ms. Swords:** Thank you.

**Mr. Makarchuk:** It's an excellent brief, well researched and comprehensive. What I want to get back to is what Mrs. Campbell was talking about earlier. I may be reading you wrong, but the assumption is, Maggie, that if rent reviews or rent controls are removed, apartments will be built all over the place or there will be a boom in apartments.

**Mrs. Campbell:** No, I didn't say that.

**Mr. Makarchuk:** Okay, all right; but that is, shall we say, the mythology. There is also the assumption that there are parts of the province where we could remove rent controls because there is an excess of apartments to the need. It seems to me that nowhere do we really come to the problem, because even if you look at these other areas where there is an excess amount of apartments to the rent requirements, there is nothing that lowers the rents; the rents are still high.

If you have two or three apartment buildings in an area and if you remove them from rent control, if they decide to raise the rents they may have initially an increase in vacancies, but eventually, over a period of a few months, you'll find the rents everywhere else rise to pretty well meet the other places because people have to live someplace. As a result, the whole idea that you are going to let the market mechanism control the rents is just a fallacy.

In this case the government is involved in the market mechanism by bringing in rent controls. What we get back is the statement at the start that there is a crisis in affordability in housing and that there is no housing being built right now at a cost that people can afford. When you consider, say, that the average price of a two-bedroom apartment is about \$300, that means an income of about \$14,000 a year is necessary in order to put out about a quarter of your income in rent. If you look at the incomes of people in Toronto or anywhere else in Ontario, you find out that probably 60 or 70 per cent of the people do not have incomes at those levels.

It seems to me you've got two choices: You keep on with the rent control program

and improve it; that's the one choice. The other choice, the only time you're going to change it, or do something about it, is when the government gets into it and starts building houses at a price so that people can afford rents; because the private developer, in the first place he's not going to because there's no point, he's interested in making a profit, that's what the hell he's all about and you can't blame him. He can't build, at today's prices; at today's cost of land or material or anything like that, he can't put out rental units at a cost that the majority, or at least 50 per cent of the people, can afford.

It seems to me that what we're doing here, again, is that we'll look at it in terms of how we refine the existing rent review program, that's the one item; the second item, I think, is, very seriously, this committee should recognize the fact that removing the rent control program is not going to resolve the affordability of housing and I think we should—

**Mr. Breithaupt:** Keeping that program on is not going to increase the stock of housing. Interjections.

**Mr. Chairman:** Did you not have a question directed to Colleen?

**Mr. Makarchuk:** That's right, but this is related to—well right, let Ms. Swords—

**Mrs. Scrivener:** We could make our findings later on, but I think it's rather hard on our witnesses to keep them waiting so long.

**Mr. Makarchuk:** Well all right; let's have Ms. Swords come in and state does she really feel that if we removed rent controls: (a) do you feel apartment buildings or the number of buildings or apartment unit that will be built will increase; (b) that rents will drop? The two items, do you think that this is what will happen?

**Ms. Swords:** I don't think rents will drop. I think that it was found that even before rent review came in rental housing construction was going down, so it's not related to rent review, the amount of housing that's being built. What we are talking about, though, is tenants being protected from excess gouging, and that's what the rent review scheme is set up to do. In terms of providing adequate housing, and I'm mostly talking about—

**Mr. Makarchuk:** Affordable.

**Ms. Swords:** —adequate and affordable, because you can have affordable housing that's a slum and that's not acceptable either.

In terms of that, for people we deal with, which is the low-and-moderate-income tenant, it seems that costs have risen to the extent



that the private sector just can't provide for them anymore. So the whole solution to the housing situation is not going to lie in rent review alone, although that's part of a solution, but you do have to look at it in a much broader perspective.

**Mr. Chairman:** Colleen, thank you very much; and you will be back?

**Ms. Swords:** Yes, on May 24; to talk more about, I think it will probably be largely about repairs, because that's a big problem with tenants that I don't think the report addressed quite well enough.

**Mr. Chairman:** If I may ask Mr. Krehm. Sir, if you'd just identify yourself and your company, please?

**Mr. Krehm:** Yes. My name is William Krehm, and I am the manager of O'Shanter Developments Company, which manages about 2,100 units scattered throughout most of Metropolitan Toronto. Our actual equity in that might run about two-thirds.

It can't be in the interest of any social group to ignore the core facts relating to housing costs. Those who have an ideological commitment to public housing have quite as much reason, perhaps even a little more, to learn these hard economic facts as those who believe in private enterprise. The same arithmetical tables hold for socialists and chambers of commerce. Not realizing that has been at the root of our trouble.

It would thus be a wise and mature procedure for all parties concerned to take a close look at these underlying facts. When rent review was introduced this wasn't done. I would go further and say it was studiously avoided.

It's wrong to assume the level of rents is determined only by the degree of balance of supply and demand. That is a factor, but it's a secondary factor. Far more fundamental is the cost of constructing, financing and maintaining rental properties. For even if the supply-demand ratio were to favour the tenants, if the resulting rents are too far below the landlord's costs he'll be unable to maintain his building or even keep it; he will go bankrupt, fewer buildings will be built. We must, then, examine the main factors that have driven up costs:

One, in the early postwar years wages in most construction trades reflected in part the living standards of Calabria, so many workers had recently arrived from there. The price of our homes was in part determined by that. Not only have wages since then risen to Canadian levels, but the level of Canadian wages has soared.

Plumbing contractors charge us \$18 per man-hour, and don't always know how to tell the time. No vacancy rate, not even a 99 per cent one, will bring these rates back to where they were. Surely we can connect what plumbers charge and the fact that rents are not going down. Nor can the landlord with a 99 per cent vacancy rate pay his casual labour less than the minimum wage set by the government of Ontario.

The cost of our public services has skyrocketed. The tax burden to pay for these has been unloaded, unwisely and disproportionately, upon rental housing. That made brilliant politics but very wretched economics. Our tenants are footing the bills for that. If you allow for the fact that we go on paying municipal taxes on empty apartments and on apartments of non-paying tenants close to 25 per cent, somewhere between 22 and 25 per cent, of our gross rents go to pay municipal taxes.

Because tenants don't pay municipal taxes directly assessments have been rigged to favour the home owner who does pay his taxes directly. In Metro Toronto apartment buildings are assessed on the average at 26 per cent of their market value, while those of single family houses average only 8.7 per cent. My source? I. Nash and Associates assessment consultants; Mr. Nash helped set up the Metro assessment system.

Municipal taxes are only part of the story. Construction costs started spiralling in the early 1960s when the federal government imposed an 11 per cent sales tax on building materials and shortly afterwards the Ontario government compounded this with a sales tax that eventually reached seven per cent. That was not wise, even from the point of view of budget balancing; for by loading housing costs with taxation, these measures helped make housing unaffordable to more and more of the population. When that happened, the same governments had to step in and spend many times as much for public housing as the taxation raised by these methods; and of course the cost of this public housing showed up as a further tax burden on rental housing in the private sector and knocked out further areas of affordability.

But this tax load in private rents was not apparent to the tenant since he did not pay it directly and that presented a temptation that few of our political leaders were up to resisting. Thus the item in our cost that has shown the greatest percentage increase over the past four years has been a tax of the same Ontario government that presides over rent review. I refer to the corporate capital tax that we pay on all our borrowings, including



those to cover our losses, which rose between April 1973 and April 1977 from 0.1 per cent to 0.3 per cent of all our borrowings, including the mortgages on our buildings.

Once we learn to do our thinking about housing problems in terms of costs rather than just in terms of supply and demand, some interesting results emerge. If our governments could muster the courage to retrace the path of their errors, they would start by removing as much taxation as possible from inexpensive housing—the three levels would have to get together on this.

[3:00]

This would progressively free the public sector from the need of subsidizing or providing public housing to entire income brackets of the population. What the Treasury would lose by such detaxation, it would make up many times over by being released from the need to provide more public housing. This in turn would permit the private sector to step into that role. That would expand the tax base and keep the rate of taxation lower, and the process would snowball in reverse, as it has in helping create our present housing difficulties.

But instead of detaxing housing, we are now subsidizing the very housing that we have overtaxed. This is what is wrong with our economy. It's like running an air-conditioner against a heating system. As long as we look for whipping boys, we won't even get remotely close to the root of the problem.

Professor Sam Madras of York University has written on this detaxation of housing in an appendix to a book of mine. I have attached one copy to the brief and I recommend Professor Madras's study to you.

It's only very recently that the connection has been made between increased taxation and inflation, even by economists, let alone the general public. That is why sometimes the very people who are outraged by high rents go on to propose still more government control and still more government regulations, still greater delays in zoning, still more government funding of every sort of organization. They don't pause to consider that all this additional paperwork and taxation must drive up costs and, hence, rents still higher. What might go into space will go into shoving further tons of paper around. At this late date, you cannot help but admire such innocence.

Going on to the main factors that have led to structural cost increases, the interest we pay on our mortgages is at least 60 per cent higher than it was 15 years ago, and that's paid in a vastly greater principal amount per housing unit because of skyrocketing costs.

In addition, the federal government has needlessly driven interest rates still higher as mistaken therapy against inflation. Our mortgage service costs make up about 50 cents of every dollar—that's principal and interest—but principal isn't very great with 35-year amortization and we are not allowed any depreciation by rent review.

That mortgage principal payment, by the way, which can be non-existent in certain mortgages, is in lieu of the five per cent depreciation allowed on the initial cost of the building by the Department of Internal Revenue. There's been some very loose expertise across this table and we should really grapple with the facts. The time's nigh for that.

A one per cent wiggle in the interest rate can easily represent a five per cent increase in the landlord's total costs. There may be villains in the scenario, but you're perhaps looking for them in the wrong direction. Since the higher interest rate is established for the term of the mortgage, it stays in our costs long after Ottawa changes its mind and decides, until the next round, that punishing the economy with unnecessarily high interest rates does not necessarily lead to stable prices.

I don't have to dwell on what has happened to hydro, fuel and water costs these last few years and what will go on happening to them in the future. With the last revision of the Landlord and Tenant Act, and the tons of paper that we have to push around for rent review, management costs have gone wild. We used to manage very nicely for 3.5 per cent of gross; we can't do it for five now.

A few months ago, our firm hired, for the first time—we hadn't even dreamt of the eventuality—a staff lawyer to deal with the involuted procedures of the revised Landlord and Tenant Act; to protect ourselves against destructive and non-paying tenants. Of course, eventually our loss through bad debts, skips and vandalism eventually has to be paid by responsible tenants.

If you add up in round figures—these are round, but they're close—50 per cent of gross rents for mortgage services, 22 to 25 per cent for municipal taxes, 13 per cent for utilities, five per cent for management, you find you are left with about seven to 10 per cent of gross rents for maintenance, even disregarding profits. This is 90 or 93 per cent.

Now, please, absorb this, otherwise three years from now there will be a committee in this room discussing the continuation of rent review in—no criticism of the committee intended—as elementary a way as some of the witnesses before me.

This is an inflexible structure of costs, no matter what the relationship of supply to demand. No matter whether we have a mixed economy or socialism or communism, if those structural costs are there, they've got to be met. Moreover, our rents are frozen for a year or more ahead while prices are gaining upward momentum once again, with our drooping exchange rate and the end of AIB. If the economy is ever allowed to recover once again, then you will really see something in the way of price increases. We're frozen, you see, for an entire year. This should warn us against the too common practice of some political leaders to avoid dealing with the economics of rental housing and refer instead to an allegedly low vacancy rate and the law of supply and demand.

Let me illustrate the point of the matter by the situation in Hamilton. There the market has been so saturated with public housing that not only do we have a 12 per cent vacancy rate in the private sector but there is a problem of the public sector—public housing—finding occupants. There is a vacancy rate with public housing. In many buildings rents have not risen for years because of the demoralized market, though the taxpayer still pays for a rent review bureaucracy.

That might seem like an ideal state of affairs for the tenant, but that's an illusion. The overproduction of public housing units is paid for by the taxpayer and that swells the cost of private housing and private rents throughout the province. Nothing comes from nowhere. Unable to cover their costs year after year, landlords aren't maintaining their buildings. In certain instances, in fact, they have walked away from them, just as we heard about in New York before rent review was introduced. But there are further things to be said about using the vacancy rate as a substitute for serious thinking about housing policy.

To begin with, CMHC figures for vacancies are highly suspect; I don't know how they fabricate those. They simply don't tally with the facts. When landlords are faced with four, five and even higher per cent vacancies, they read CMHC estimates of one and two per cent. You merely have to pick up your classified ads and you will find entire pages of apartments-for-rent ads. Since advertising rates have gone up dramatically, nobody advertises lightly, not even to confuse the issue. They have an apartment to rent. What landlords have experienced over the past three years is not so much a drop in vacancies but a further steep drop in the affordability of their units—a drop in the ability of more and more tenants to pay the cost connected with

the financing, the taxation and the maintenance costs of their apartments.

Now, note this: The real question is how much public services—and this includes funding of organizations, plumbing, maintenance, financing charges associated with a given quantum of housing space—can the average tenant afford to pay for or the government afford to pay for him. For the basic transaction is not between the landlord and tenant, but between the tax departments, the plumbers, the roofers, the mortgage lenders, the utilities and the tenant. The landlord is merely the middleman and the guarantor between the tenant and these other factors and, of course, he is, above all, a heaven-sent whipping boy.

A final remark about vacancy rates. There is no way of considering what a feasible vacancy rate might be without keeping in mind the effects of the last revision of the Landlord and Tenant Act. This has created a shattering collection, bad debt and vandalism problem for the landlords of this province. If they used to be able to break even with, say, a four per cent vacancy before that revision, it would probably require a real two and a half per cent vacancy rate to leave them in the same position today.

The point isn't a subtle one; I am sure you have all grasped it. It is all the more disturbing since, at the time that rent revision was introduced, the government of this province had in its possession the complete and real facts concerning housing costs through its public housing experience.

The opposition parties could have obtained this information by asking for it in the Legislature. What is still more disquieting is that after two and a half years the government should have avoided sharing with the public the invaluable information on housing costs expensively gathered in thousands of rent review hearings.

Since writing this, Mr. Grossman was good enough to send me a letter with an enclosure of some sort of analysis, a 1976 cost analysis presented to the Legislature. I am sure there is rejoicing in heaven, where they, above all, appreciate repentant sinners, although Mr. Grossman, personally, couldn't have been responsible. However, I do not understand why it took until April 1978 for rent review to analyse and release such figures, especially with the Ontario computer agency at its beck. Those figures should have been put out every three months, and far better analysed than in this first commendable effort that has reached me since the brief; that's why I thought, in all fairness to Mr. Grossman, I should mention it.



**Mr. Epp:** I am sure the chairman will see that we get a copy of that.

**Mr. Krehm:** As far as it goes, it's an excellent first effort. But the important thing is to educate ourselves, including landlords and the public and tenants, about the economics of housing. This hasn't been done. We've been chasing villains.

Instead of such an analysis, the rent review organization confined itself to issuing periodic bulletins on how much it had "saved" the tenants of the province. It is a dubious saving to the tenants that results from the inability of landlords to maintain our housing stock—the rental stock that we are less and less able to reproduce. It is a dubious saving for tenants who may be pounding the pavements unemployed, that prevents landlords from spending millions of dollars to renew roofs, carpets, paint, and improve their properties as they should like. It is above all a dubious saving for the tenant who is also a taxpayer, that has helped cause—let's be fair about this, it's not the only cause but it's an important one—private investors to abandon the rental housing field in droves, to the point where our government feels obliged to spend \$7,700 of the taxpayers' money per unit—that's between the two senior governments—in an attempt to lure them back into it. You will find that figure on page 21 of the green paper.

When rent review was introduced, I knew that we were faced with a great and costly burden of paperwork. But since the Act had guaranteed—the market permitting—that landlords would not suffer a loss, and undertook to see—again, the market permitting—that their cost increases were passed through, I personally was not unduly alarmed. It was announced as an exercise in cost-accountancy; I therefore felt that the immense labour would not be in vain, that it would serve to educate the tenants and the public as to what it was that made rents go up.

[3:15]

I must say that two and a half years later have left me, and other landlords, not only disillusioned but appalled. What the legislation set up as an essay in cost accountancy was perverted into an exercise for the production of a politically desirable statistic, the amount of money that rent review had saved tenants; to achieve this result, the government resorted to some highly ingenious means.

An improvised bureaucracy was literally hired off the streets—some immensely competent, fine people; and others, of course, with heads full of preconceived notions. They were invested by the provisional guidelines with quite sovereign powers.

Even after a year or two rent review officers still bring in decisions based on the exact same cost analysis, relating to the same period, that have varied from eight per cent to 50 per cent. How they arrive at them nobody knows. Rent review officers were permitted, and even encouraged, to exercise their ideological bias provided it contributed to that desired statistic. By giving the rent review officer such breadth of discretion, the government was able to profit by the resulting statistic, without in any way incurring responsibility for the means whereby it was attained.

The provisional guidelines drawn up by the government violated the declared purpose of the Rent Review Act by redefining the terms "cost" and "loss" to give to them meanings quite different from those that have currency, that are accepted by the tax-collecting arm of the same government, the banks and the bankruptcy courts.

A generation ago, in his satire on the communist system, George Orwell coined the expression, I think it was "newspeak," to designate this sort of thing. Our government is to be congratulated in having gone so far in so short a time to catch up with far more experienced practitioners of this art.

Thus the guidelines provide that "where the landlord has utilized borrowed funds for major repairs and replacement, the rent review officer will not normally consider, as a justifiable cost increase, any increased interest expense."

The cost of a new roof, for example, has to be amortized over 15 years; that's fair enough. The interest paid on the unamortized portion, however, is disregarded. With current interest rates, of course, the disallowed interest by far exceeds the principal instalment that is allowed. To make all this more piquant, the government that disallows the interest collects taxes on that same interest at both ends—at the lender's end through income tax and at the borrower's end via the corporation capital tax, that has gone up 200 per cent in four years. Eureka, we have finally discovered perpetual motion; I congratulate rent review on it.

If our economy is close to being in a shambles you have—not only rent review, I am not saying it is entirely at fault; it's this type of thinking in Ottawa and Toronto that has contributed to it. It's enough to scare you out of your wits.

We are told that it is time we moved from a consumer to a conservor society. Well then let us conserve our buildings. Allow us to replace a leaky roof. It is not only the new buildings; you know even 20-year-old build-



ings could have 50 years of life before them, and they are based on a lower cost. Look, the government is contributing—the governments are contributing \$7,700 in subsidies per unit. We have buildings that we bought five years ago at \$13,000 a unit with some six and three-quarter per cent mortgages, eight per cent seconds, that are running at a loss.

Incidentally, in this particular project, rent review is not at fault. We are not able to get the low rents that rent review awarded us because the market has fallen apart because of the economic recession that is upon this blessed land.

In the municipality of Etobicoke, I have offered our books in confidence to several departments of the Ontario government over the past two and a half years. Our association has made the same offer of our books. It has not been taken up. The government, concerned, of course—in part it's the pressure it was under from the opposition parties—has turned off its hearing aid, until very recently. The green paper is an excellent, partial reversal that tells the story that we tried to get through to rent review for well on to two and a half years, unsuccessfully.

As a result, it has been suicidal for a landlord to undertake replacing a leaky roof, improving the insulation of his building, or introducing energy conservation schemes; the savings in fuel would inevitably be deducted from his future rents, but the chances are that he wouldn't recover the full cost of the replacement or improvement. At best it would rest with the whim of the rent review officer.

Bank managers are cussed folk. They have a perverse way of wanting to know how the money they lend you is coming back. You couldn't talk to a bank manager and show him the guidelines, let's be realistic.

It has thus become impossible in this great province of the trillium for landlords to replace a leaky roof. We did one of 11 that we should be doing last summer, but that was entirely a quixotic gesture. At most you can patch, and there is no sound way evolved to date of efficiently patching a leaking flat roof. Water gets into the insulation; and if you spend \$10,000 for a section where you should spend \$45,000 for the whole roof, the chances are that three years from now you'll have to redo the whole thing anyway.

I carried on some very bizarre correspondence on this and other matters with two successive ministries in charge of rent review. I really shouldn't be hard on Mr. Grossman, he's a new arrival and there are very visible improvements, notably the green paper since he has come. His predecessor—my correspondence with Mr. Handleman; I provided one

copy of a file as an appendix, it will be very informative; it's pretty thick too. Mr. Handleman's heart was obviously not in it; he didn't believe what he was signing, it was so apparent. So I shouldn't be hard on Mr. Handleman.

Actually, I don't know whom I should be hard on. There was a faceless deity directing rent review, saying, "They're free; these people we hire, we improvised"—I understood why a wise man like King Solomon had so many wives, although I never could before, it seemed pretty foolish; the answer is he had to breed the little Solomons that rent review could hire in its path, to take upon themselves all these great responsibilities that the government of Ontario was obviously avoiding. It makes sense politically, don't misunderstand me. Our trouble—I wish all politicians well; I sit here and I don't know how you people stand it year round. Somebody has to, that's clear.

Our trouble is the application of political logic to economic matters. Your time horizon is the next election; I'm not criticizing you, but most of our social problems—

**Mr. Makarchuk:** That was yesterday.

**Mr. Krehm:** —require time horizons of—on such as energy it is 20 or 25 years from now.

**Mr. Makarchuk:** You're lucky you're here.

**Mr. Krehm:** Yes, we are lucky.

**Mrs. Campbell:** Next week you may not be.

**Mr. Krehm:** Last year I also corresponded with the Energy minister of the time, it was Mr. J. A. Taylor.

**Mr. Makarchuk:** He had problems.

**Mrs. Campbell:** We know, we sympathize with you.

**Mr. Krehm:** No, on the contrary, actually I just got a lovely letter when all this was over and nothing could be done by the Ministry of Energy to help us insulate our buildings, but his civil servants from the Energy ministry tried to be extremely helpful. They attended our association meeting, grasped the economics, grasped the fact that there were greater savings to be effected in apartment buildings than in single-family dwellings. The fact that we couldn't do them, again was logical politically, it wasn't logical from the standpoint of energy conservation.

**Mr. Makarchuk:** He grasped it in the House though; Taylor, I mean. It was raised and he agreed—on insulation.

**Mr. Krehm:** In private houses we're making some progress.

**Mr. Makarchuk:** In terms of government policy.

**Mr. Krehm:** The Ontario government had its policy at this very time and then abandoned it. It spent some money in advertising, which helped the public press, which is an important instrument in democracy, and then it disappeared.

Mind you, we were not asking for subsidies to help us conserve heat in our buildings. We were merely asking for a change in the guidelines that would give us the assurance that the million dollars—and we're not that big a firm; what you'd call a middle-sized firm—that we were prepared to borrow for the purpose would come back to us along with the interest that we had to pay.

That required that the interest be recognized as an expense by rent review. Even with the help of the Ministry of Energy we could not extract from rent review anything more than a restatement of their position that it would depend entirely upon the discretion of the rent review officer whether this would be the case. So we dropped our program. We can get the same thrill out of buying a Wintario ticket. The probabilities are similar and the outlay considerably less.

When the percentage increase of revenues needed by the landlord to pass through his costs or to assure him against a loss is ascertained by such disingenuous means, he still does not get it, under the guidelines. On the contrary, the guidelines in effect make sure that he doesn't get it, for the required increase in gross rents is transmuted into a ceiling on the percentage increase for those leases that happen to come up. But since leases expire at different times of the year, the effective increase of gross revenue is bound to be less.

Unfortunately, the world is set up so that you pay your bills out of gross rents and not out of ceilings—theoretical ceiling increases. You are at a loss which to admire more: the ingenuity of a government that has dreamt up this series of devices, shall we say—I have printed “tricks”—or its naivety in believing that it could get away with them for very long.

I don't understand why the Minister of the Treasury (Mr. McKeough) in this government of ours has so much trouble with deficits. He could borrow one rent review officer and that rent review officer could make his deficits disappear as effectively as he's made landlords' deficits disappear.

Landlords who acquire buildings—and here we get to something very earnest. It's a little complicated. I apologize for the nature of our business, not because we gouge our tenants, but because it's a very complicated business. Try to bide with me and I'll answer ques-

tions to clarify matters, if such remain. We acquire buildings, whether they're built new or whether we buy a building, with a time horizon of several years. Landlords rarely expect a net cash flow during the first few years of their operation.

In the case of our own company, the pattern has been to acquire existing buildings with problems of one sort or another and go to work on these. As a result, a negative cash flow has been normal with us in the case of recently acquired buildings even before rent review. There was deferred maintenance to be carried out, sometimes the market was soft, and so forth. Meanwhile, the money to do this was borrowed or came out of net revenues that we had developed from other buildings that we'd had for a longer time.

In other industries such things are called ploughing back earnings and they're usually recognized and encouraged by governments. Rent review took the contrary point of view. Our operation was cut up by the buildings and by the year—in fact, by the apartment. This point was discussed; no levelling out of rents for the same sort of apartments. If we had incurred losses in upgrading a building before rent review, that was just our tough luck. The guidelines afforded no loophole of working our way back into the black—not even in theory. In practice they actually guaranteed that our losses would grow greater.

Our association attempted to explain this problem to the executive director of rent review and his senior staff early in the operation and we were advised that a “provident landlord” would have found himself in a positive cash flow position in all his buildings when rent review was introduced.

[3:30]

To our great surprise and satisfaction, we now read on page 12 of the green paper: “The typical pattern of pre-tax investment on rental buildings was one of lower negative cash flow in the initial years, followed by an increasing margin of return over time.” Wonderful. In my rejoicing over this belated discovery of the facts of life of our industry, I was prepared to forgo asking how a government which knew these things all along should have drawn up the guidelines and refused to amend them.

My forgiving mood was shattered by a single incident. At a recent rent review hearing, the rent review officer not only ignored the green paper and its wisdom but wasn't amused when I insisted on reading from it to the tenants present. What is more, his decision ran contrary, not only to the green paper, but to the most elementary accountancy. As a result—this is rather important—it's going to



cost the taxpayers of this province several hundreds of dollars for the appeal to the review board that we have launched on the case.

The building, by the way, is in Rosedale. By no stretch of the imagination could its tenants be described as in need. You will find my correspondence with Mr. Grossman on this matter in the file.

Now we come to a rather important, crucial matter. In this correspondence with the minister, I had remarked that the guidelines contravened the provisions of the Act, and received the reply: "A hearing of the Ontario Supreme Court on an application for judicial review addressed this point and found that the guidelines to which you refer were appropriate and within the rent review legislation."

I consulted the decision of the High Court of Justice re Minto Construction et al and the Queen and I found two very crucial passages. This is part of the decision of the court: "There is, then, nothing in the Act or regulations or, indeed, the guide that requires the rent review officer to follow the guide or that fetters his discretion. Although the guide is a factor that he must consider, he is not bound to follow it. In those situations where it would not be equitable to do so, he ought not to follow it."

This passage obviously supposes that the government has trained a corps of rent review officers to the point where they are capable of implementing the Act and fulfilling the great expectations placed upon them by the Supreme Court of Ontario. That is so far from what has been the case that it isn't even funny. Your committee need only thumb the file of correspondence that I attached to this brief—I don't want to impose on your time by citing it—to convince yourselves of that.

Nor have the rent review officers been informed of this key decision of the Supreme Court that empowers and even requires them to ignore the guidelines when they judge it would not be equitable to follow them. At dozens of hearings I have had the rent review officer agreeing with me that the guidelines were unjust and lamenting with me that his hands were tied by the guidelines. This has been particularly the case with respect to the provision in the guidelines that makes it impossible to even out differences in rent being paid by tenants for the same type of apartment. I have yet to meet a rent review officer who had been informed by his superiors that he was free to ignore the guidelines. Our government, in short, has flouted the decision of the Supreme Court as airily as it has the letter and spirit of the Rent Review Act.

The other passage in the court's decision that I would bring to your attention is the following: "When the Act is looked at as a whole it is apparent that it is a temporary measure. It was obviously passed to complement the federal government's anti-inflation measures. In a temporary manner it is an attempt to remedy one of the many facets of inflation. It is difficult to consider the Act out of context and in isolation. The Act ought not to be considered solely as a means whereby a landlord can pass through his costs to a tenant, important as that concept may be, nor should the discretion of the rent review officer be interpreted in such a way as to unduly restrict it."

From this passage it is clear that with the end of the AIB there remains nothing in the Supreme Court's decision on which to base the legality of rent review. The damage resulting from two and a half years of rent review run along such lines has been more than economic. There has been a complete collapse in the credibility of rent review. Landlords felt the government was playing tricks with them. They have come to doubt its basic good faith. As a result, they have learned to stay away from rent review in droves.

They preferred putting up with a foreseeable loss—accepting the increases allowed without applying to rent review—to spending great amounts of time and money on a gamble that a fair or sensible decision might be rendered. Characteristically enough, rent review in its press releases has cited the small percentage of landlords making application as proof that everybody was content and that the system was working. At every step, the rent review bureaucracy has drifted further and further away from the realities of the situation.

Landlords are trapped in what properties they have. A market in apartment buildings has practically ceased to exist but our leaders can take scant consolation in that. New investment in residential rental property has basically ceased except where builders are lavishly bribed with public funds to build such units. It's impossible that this situation continue. For close on to three years, rent review has been sweeping part of the cost of running our buildings under the rug. But those costs are there.

To meet them, landlords have been drawing upon their reserves and upon their credit. Many have managed to survive because in the last couple of years interest rates providentially have been relatively low and mortgage money abundant, and because mistaken policy has wrought even greater havoc in the fields



of single-family housing and condominiums, lenders have come to view established rental properties as relatively sound risks. That bountiful situation, however, is drawing to a close. Our drooping dollar is driving up our interest rates once more, at the very time that prices are poised for a new upward push.

Allow me to warn you in as clear terms as I can muster that any extension of the rent review program, more or less as it exists, is going to bring in a harvest of disaster, the like of which few members on this committee can even imagine.

Here are four sale-under-foreclosure advertisements of apartment buildings in Saturday's Toronto Star. Here is a 49-suite building, 1,000 and change, Eglinton West; an excellent district I think—I don't know just where it is; it shouldn't be too far from Bathurst—sold under foreclosure. That is the tip of the iceberg.

A year ago, I went to see somebody in the Housing ministry. Somebody on our staff had the good fortune of sitting beside Premier Davis at a banquet and I suppose spilled our troubles into the soup, and Premier Davis was kind enough to write out an address. It was a little bit like speakeasies under prohibition: "Go see this man in the Ministry of Housing." He dragged me along and the man at Housing said, "How are things?" I said, "Oh, we are managing to pay our few bills. We have just written a new mortgage." He said, "You are in difficulty? I have never heard of that." I said, "There will be bankruptcies." He said, "I haven't heard of bankruptcies." I said, "Mr. Guthrie, by the time you hear of bankruptcies, it will be far, far too late."

It's much later now. May I leave this with the committee and may I suggest a minute of meditation, silent meditation.

[Laughter]

This is not a joking matter, it's a terrifying matter, because these things snowball throughout the economy. I think everybody on this committee and I hope in this room is concerned about the state of the economy. These things snowball. Ours is a business that is exposed to very sudden and expensive surprises. A boiler or a water line springs leaks and has to be replaced. The cost of such items can run into thousands and thousands of dollars. There is no way of predicting emergencies like that.

Financial reserves and credits must be on hand for such misadventures. The point isn't a small one because two and a half years of rent review has stripped our industry of its reserves. Its problem today is how to meet mounting fuel bills, let alone how to replace a heat exchanger, boiler tubes or the boiler.

What is more, our rental housing is three years older than it was when rent review was put on. Such emergencies, therefore, occur with greater frequency. As first of the options before you, the green paper lists continuing the program more or less as it is, I suggest that this option be stricken from the list, because it ain't there. To pretend that it is an illusion. You don't put that on your list of options for the same reason that engineers don't put perpetual motion as a possible source of energy for a project.

On the other hand, there is an option that the green paper list does not include and I submit it to you. Our industry has been left in a sorry state by almost three years of rent review. From being an investment, apartment buildings have become a trap for their landlords. If our government honestly believes that the rents allowed by rent review are enough to maintain a building, it ought to step in and buy them—a good many of them. It could get some very excellent buys because the market has practically ceased to exist and then it could run them with the same efficiency it runs Ontario Housing Corporation. Such a course would have an additional merit—it would be putting the money where the mouth is.

Now the green paper—this is of crucial importance; I'm sorry I'm a little long but I am getting to the close—informs us on page 17 that the average monthly rent approved by rent review on one-year leases was \$236.85. On November 5 last the Gobe and Mail informed us that the operating cost of Ontario Housing Corporation per month on each of its units was \$240.72. That is almost \$4 more than the total average rent allowed to private landlords. It should be noted too that part of these private rents goes to defray the losses of public housing through taxes paid to the provincial government. Moreover, the private apartments that were included in that average rental allowed by rent review included many luxury suites—\$1,000-a-month suites in Rosedale.

The operating loss of OHC in no way includes other costs to the taxpayer; for example, those connected with the low-interest CMHC mortgages on OHC buildings. I would have imagined that the publication of these figures would have been recognized as the equivalent of the breaking of the sound barrier—a boom. Yet not a single politician—I don't say this critically but in sorrow—nor a single newspaper even commented on the message that these statistics were delivering.

The truth about housing costs is being beamed in on us from still other quarters quite apart from public housing. I refer to

the grandiose mess that is building up in the condominium field of which we have not heard the last. The ravaging of our rental housing industry for political effect has led to more of our population becoming dependent upon condominiums. Refusing to be trapped in further rental units, the developers have flocked into building condominiums. The market is oversupplied and, here too, there are some real bargains to be had

[3:45]

That, however, is only part of the story. Once a buyer of limited resources has raised his down payment and convinced himself that he can pay the carrying charges, there are often surprises in store for him. When the building gets to be five or six years old, staggering maintenance bills start pouring in. Galvanized pipes spring leaks; brickwork needs repointing; roofs develop leaks. When that happens, the natural impulse—it's only human and if I were a tenant I'd probably do the same thing for a while, I hope—is for the anguish to seek out a villain to blame—the builder, the government, even the mortgage company.

What has come to the fore is merely the high cost of maintaining an apartment building, the sort of thing that landlords have always had to put up with and that rent review has attempted to put out of sight and out of mind. Condominium owners, in fact, have just caught a glimpse of the tip of the iceberg. When the first generation of our condominiums reaches the 10-to-15-year age zone, they will learn about a still more costly type of repair—radical work in the heating system; roof replacement; renewal of elevator motors and controls.

The public is going to receive a further education in housing costs, which rent review has denied them, when the reassessment undertaken by the province is completed. When that happens, and the burden of statistics is redressed somewhat, thousands of people will find that they can no longer afford to live in their own single-family house. They will seek rental accommodation. As things stand, they aren't too likely to find it.

While on the subject of reassessment, allow me a prediction, because sometimes it's better to exercise a little foresight in such affairs. The idea underlying the reassessment is to bring the figures on the rolls in closer relationship with market values. In the case of apartment buildings, that raises a delicate question: what is market value when there is no market? The rule of thumb in buying apartment buildings used to be seven times gross—that was in the ballpark. Now it is

six times gross, except of course that there are very few transactions.

You don't need 20-20 vision to foresee that when reassessment finally comes in, the appeal boards and the courts are going to be jammed with actions by landlords for the drastic reduction of their assessment to correspond to their collapsed market values. And they will have a good case. That means that homeowners, already under pressure because of the reassessment, will end up paying for the political binge that has been rent review.

My concern about rent review is not just an economic one. The whole operation, quite frankly, reeks of institutional rot. A government that knew better all along puts the lid on that knowledge to achieve a political effect. It evades responsibility for what it is doing by shoving to the fore a supposedly sovereign—if improvised—bureaucracy. While keeping this bureaucracy on a short leash, it pretends that it has no power over what it is up to. By artful double-talk, it makes a mockery of the legislation and the decision of a high court. The members of this committee will have good enough memories and enough imagination to extrapolate such procedures and understand where they lead.

Having said all this, let us pick up the pieces and try putting them together. To begin with, we must educate the public in the economics of housing—that's not against tenants, that's for tenants; that's not against anybody. It's not all a zero-sum game. There are certain areas of common interest between landlords and tenants and government. It requires a certain drastic honesty, if I may be permitted to use the expression. It is all right talking about guaranteeing our citizens shelter, I am all for that. But we must determine just how much housing—at today's prices, at today's tax levels and interest rates—we can afford; and that's both the tenants and the government that will be supporting those who are in need. That's the only sensible beginning.

The same Ministry of Consumer and Commercial Relations that presides over rent review insists that the label on all ketchup sold in this province state clearly what has gone into the bottle. There is no reason our tenants should be kept in the dark about the costs that go to make up their rental dollar. They have a right to know it, and we landlords have a right that our tenants know. Only when we have learned this can we begin dealing with our housing problem instead of chasing a scapegoat.

Once we have determined how much housing our society can guarantee its citizens and where the money is coming from, another



choice must be made: whether such affordable housing can best be delivered by the public or the private sector. There should be no dogma involved. Whichever can do the job better, let him do it; ours is a mixed economy. With the statistics I have cited, that should not be too difficult—deciding which can do the delivery better.

If we reach the decision that private enterprise is the more effective tool to a social end—and to hell with the debate about the better philosophy—we must let it be and function. No government bureaucracy should be permitted to direct an industry that it has not even taken the trouble to understand. Political logic must never be imposed upon a sector of the economy.

Were our industry allowed to return to conditions of viability, there are ways in which it could help the government shoulder what is its responsibility—the problem of housing for those who cannot afford that of the private sector. I have a suggestion that would fit entirely within the framework of sound business practice. Let me give you an example:

Senior citizens make conscientious tenants as a rule, whether they have lived long enough to become wise or they no longer have the energy to kick up too much hell. They neither carouse, nor do they vandalize buildings. They're likely to remain for longer periods without moving. Their presence contributes to the quiet enjoyment of the other tenants. These things do show up on the balance sheet of the building.

If we were allowed a margin of discretionary income, it would be in everybody's interest to give such tenants a discount in their rents. Tenants of 60 or over, who had been with the building for two years and prove themselves good neighbours, could be granted a 15 per cent reduction in rents prevailing for a given type of apartment. We would be prepared—and when I say "we," I'm talking of our company, but I'm sure most landlords would go along with it—to make 20 per cent of our smaller units, one bedrooms and bachelors available for this purpose. The savings to the public would by far exceed the reduction in rents.

The American economist, Milton Friedman, has formulated what he considers a law. It usually costs the public sector twice as much to do what the private sector can do. Certainly OHC would seem to bear out Friedman's law. What would appear as a 15 per cent saving to the senior tenant in the scheme that I am proposing would in effect, in many instances, mean a saving to the public purse of 100 per cent of the amount of the rent paid to us,

for that reduction might permit the tenant in question to continue being self-supporting, to say nothing of the social desirability of setting up fewer public housing ghettos.

I am confident that if a scheme like this had the blessing of a government that had put an end to the bureaucratic nightmare of rent control, all landlords would go along with it. What will protect tenants against abuse? Don't think that I am unmindful of both of your problems—as members of the Legislature and of tenants as humans. I think there should be, certainly in this context, some device whereby abuses could be considered and remedied where they occur, on the part of both tenants and landlords. For that we don't need a costly, bumbling rent review bureaucracy that not only costs us money but perhaps displaces socially more necessary services. We can't talk in terms of absolute. There is a ceiling. We're talking of human labour that comes very highly priced.

A carefully constituted tribunal to which tenant or landlord could apply would suffice. I believe it could also be empowered to deal promptly with evictions, maintenance problems and many of the things that the young lady spoke of here. I think she had things badly out of focus in many respects but I would agree with many of her conclusions. I assume there is good faith on the part of tenant associations in such matters, as they must assume that there is on the part of responsible landlords.

The green paper informs us that only 20 to 30 per cent of tenants can be considered as having difficulty in paying their rents. There is no evident reason why either society or the landlord should be subsidizing the other 70 to 80 per cent, eventually at the expense of those who really need some help.

A further word of warning, and this is really crucial to the whole suggestion, such a tribunal must be conversant with the economics of housing. Unless it is, it'll have no way of judging what is an excessive rent and what is not. You can't go by what the tenant can afford to pay. We can't go to the tax department and say that our tenants can't afford to pay your taxes. It must be set up and guided by a committee on which will sit, not only tenant and landlord representatives but an economist and an accountant, who could also represent the government of course.

It will be mandatory upon it to analyse the cost data passing through its hands and to make a summary of such analyses available to the public. Such analyses must include comparisons between those reported by private landlords and those of public housing. Under Roosevelt, TVA, the Tennessee Valley



Authority, and other public power projects, were made to serve as yardsticks with which to judge the rates charged by private utilities. Were we to do this in the field of housing, we could prevent this serious social problem from becoming a political football again. It is, after all, time that we started showing a little respect for the intelligence of both tenants and the taxpayers.

**Mrs. Campbell:** Do you ever wish you'd stayed with your town-housing in Rosedale?

**Mr. Krehm:** That was a situation, you couldn't build such town-housing at present-day costs. That was a situation where we didn't think far enough. I had enough of it at a certain point; and those houses are still standing, there are some at the head of the street. Let's not open old scars, we have so many new ones.

**Mr. Epp:** I wonder about your—

**Mr. Chairman:** If I may, perhaps we're on the same vein, but I think the problem we've got is a serious one in that I, like other members of the committee, have some questions. Your comments, Mr. Krehm, were sometimes humorous and provocative at the same time. Yet in the interest of time, and specifically in deference to Mr. Weidlin, I think we will have to move along. Is that okay, Herb? It is a few minutes to 4 and Mr. Weidlin has been waiting patiently all day. I don't know whether we're going to have an opportunity to have Mr. Krehm back.

**Mr. Warner:** How many more do we have?

**Mr. Chairman:** Mr. Weidlin, that's all.

**Clerk of the Committee:** Mr. Amonsén is also waiting.

**Mr. Chairman:** I'm sorry; Mr. Amonsén as well, who has been here since 2 o'clock, that's correct.

**Clerk of the Committee:** Mr. Weidlin's been here since—

**Mr. Chairman:** Can we get some concurrence that we will stay? I'm asking the committee.

**Mr. Amonsén:** I'll be fairly brief.

**Mr. Breithaupt:** Perhaps, Mr. Chairman, so as not to untowardly upset persons who did wish to speak to us, it would be possible to hear both of these persons who have come and spent some time with us. I'm certainly prepared to stay for some extra time to convenience them. They've been very patient and I think we owe it to them to hear them if we can.

**Mr. Warner:** No more than a half hour.

**Mr. Breithaupt:** I think that should be satisfactory for these two. We may not be able

to have every word gone over for us, but summaries perhaps could be made.

**Mrs. Campbell:** Mr. Chairman, I regret I have to leave. I'm catching a plane so I can't stay.

**Mr. Duksza:** I have to leave too but there seem to be enough people left.

**Mr. Breithaupt:** We'll be fine. This is recorded for Hansard, so we're content.

**Mr. Duksza:** The only other thing is, at 4:30 will you discuss for a few minutes the travelling plans?

**Mr. Chairman:** Yes, we'll have to, right.

**Mr. Weidlin,** if you'd be good enough to come up. Again, I apologize for the length of the wait. If you'd identify yourself, sir.

[4:00]

**Mr. Weidlin:** Ladies and gentlemen, my name is Rudolph Weidlin. I am a small landlord of only a 24-suite apartment building, besides being manager for some other small properties, six altogether, in the city.

I would like to speak in general terms. Please excuse my brief that I submitted today; it is more or less in short telegram style. I just wanted to point out the main areas that I am going to speak about.

In my opinion, as Mr. Krehm correctly said, the market forces cannot be controlled artificially, they can only be guided. The only control in the market is supply and demand. But what is even worse than that is to control only a small part of a segment of the economy, which in this case is to control the rental portion of the housing segment.

There has never been control of single private houses; however, it is always so on rents. To control the economy means tampering with the symptoms or the result of a previous cause; unless the cause is corrected the patient remains sick. Governments should guide and steer the economy in the right direction through tightening or loosening up credit, tax measures, incentives, et cetera; but never control the economy. However, if controls work, why apply them only to shelter? How about food and clothing? Why do we never go into Dominion's affairs or Eaton's balance sheet; why always into rents and shelter?

The green paper confirms that rent control has damatically increased the differential between artificial and natural price levels of rents, stagnating or paralysing new construction. In rental housing there are two parties, the landlord and the tenant. Why protect the tenant only? Do landlords not need equal protection under the law, or are landlords second class citizens? Rent control means

non-liquidity of owners' equity. Their life-long savings might be lost; people unable or unwilling to carry on with the burden of a building cannot sell unless they are prepared to lose most or all of their buildup equity.

The rent review system as such is an appalling situation. I have been through three or four hearings, and I regret each and every one of them. The hearings are similar to court actions under a communist regime. Why are tenants entitled to know financial details from the owner? I cannot get details from the Dominion Stores or Eaton's, as I said before. The landlord sits there like a criminal; subjected to any type of question, open to extremely rude verbal abuses—and ladies and gentlemen I have been personally subjected to these kinds of abuse. I have been asked how can I dare, and told I should be ashamed of myself even to ask for a rent increase.

Rent control or rent review is not interested in market rents or market level. The rent review officers live in a little artificial world of their own, completely detached from the housing industry. However, they are empowered to give or impose judgement regardless how absurd it is. This judgement has been imposed by people who, from those whom I have talked to, have never owned or never managed an apartment building; quite a number of them have never even lived in an apartment building. Yet they are empowered to sit in judgement.

A discrepancy of 20 per cent to 30 per cent on rents in the same building, for the same type of apartment, and a similar distortion with the market, is almost always the rule. "No," says the rent review officer, "we are not interested in the market. We are only interested in the cost-pass-through system."

Ladies and gentlemen, to me a cost-pass-through system means that whatever cost is being built up here is being passed through to a tenant. That is the way I interpret it. But no, the rent review officers think differently. They have developed their own set of rules. If a cost exceeds the totally arbitrary figure of increase they had in mind, just out of the blue sky they will write off, as they call it, a loss over two, three or more years. Ladies and gentlemen, with a similar approach my bank manager wouldn't lend me one penny.

It is completely irresponsible to keep the present or any similar system of control. I said irresponsible, and I mean for today's tenants and for the next generation. Government is creating an illusion of stability that is non-existent, an illusion that becomes weak-

er month after month. It is throwing sand into a tenant's eyes, telling them a fairy tale.

The results of controls are an ever increasing shortage of housing; with increasing pressure on rents, inviting black market, key money and all other evils of controls. Do you remember what happened during prohibition?

Let's keep in mind that it was government action at the provincial and municipal levels that started the present trauma. Builders are faced with an incredible set of red tape and bureaucracy. Five years of waiting period is not uncommon, and this all increases costs.

The green paper proves that free enterprise has worked in the past, with the restrictions, and tax laws promoting and not hampering construction. This provided tenants with abundant shelter at reasonable rents. Why switch from a system that has proved itself, that worked, to one that it has been demonstrated never has worked, does not work and never will work?

I read three ads last week, as Mr. Krehm pointed out already, about apartment buildings being sold under power of sale. I do not recall such an ad in the 12 years that I have been in Toronto, neither do I know of any building that was sold under stress before.

With controls this will become a daily happening. Buildings will dilapidate; they will become neglected by tenants and owners; vandalism will start; it will soon become a slum building; the neighbourhood will suffer; the owner will walk away from it eventually and the building will be condemned. Have we not learned enough from New York City yet? I ask you, is this responsible government?

Instead of creating or helping to create, these measures assist to destroy what private enterprise has created and maintained. The controls are self-defeating. There will not be new construction unless it is heavily subsidized, at taxpayers' expense. Let's not kid ourselves, what does taxpayers' expense mean? It is to rob Peter to give to Paul. And who is going to foot the bill? The taxpayers and tenants alike; and in between are the high administration costs. This results in a decrease of supply, increasing the pressure on rents even further. This will necessitate additional and more rigid controls. We will be in a vicious circle forever.

Now referring briefly to the Landlord and Tenant Act; it is a hopeless situation. Tenants can live almost forever rent free because it takes so long to get them evicted. Court action takes several months. The loud, de-



structive tenant cannot be thrown out quickly; the good, old tenants suffer. The collection of old rents is almost impossible. It takes two to three months to get a court hearing; by then the tenant has vanished, the rent remains uncollectable and it is a loss. Who pays for that loss? Those good tenants who are staying in the building.

A similar situation occurs with non-payment or non-collection of cost to repair willful damage. The old security deposit was a good system if abuses by landlords would be discouraged. The postdated rent cheques should be reintroduced; it was a very useful and expedient way to collect rents for the property management; eventually, the tenant has to pay the rent regardless.

Only one month's prepaid rent is necessary, however there is a 60-day notice period. It has not been uncommon, I should say it's been quite frequent, that a tenant leaves after 30 days and the apartment stays vacant for one month, because it now takes us 60 days to rent an apartment. The lost rent is almost always uncollectable.

Under present legislation, the landlord may give undesirable tenants notice to vacate. If the tenant improves and complies with requests for a few days, the landlord's notice, by law, becomes null and void; the tenant misbehaves again a few days later and the whole process starts all over.

My comment on this is that the judicial system must be improved and made far more expedient to protect good tenants, the majority of tenants, against bad tenants, who are proportionately small in numbers but extremely loud and hard to handle.

Last but not least in these comments, how about protecting the poor landlord once in a while against bad tenants who will wreck his assets?

My suggestion for a solution of the dilemma the government finds itself in is, as far as rent control is concerned, terminate rent control completely. Do not forget controls go after the symptoms only but do not correct the cause of the malady. Existent rent agreements or leases will carry over well into 1979 anyway.

Do not stipulate amounts of increases since automatically the maximum becomes the minimum; let the free market find its own level. Impose restrictions of unconscionable rent increases through industry's self regulation for the next two years for the existent tenants; free rents completely for the new tenants.

Unconscionable should mean anything above a good average of rents being charged for similar accommodation in the immediate

neighbourhood. For this, a rental appraiser could be created on a strictly temporary basis. Or even better, ladies and gentlemen, unconscionable rent is any rent above the true cost of Ontario Housing Corporation for a similar apartment. The private industry would be very pleased with it.

Residential tenancy dispute resolution is at least as important as dropping rent control. Create a residential tenancy tribunal with broad adjudication and with the power of major determinations, as per chart 6-2 of the green paper—which by the way I must comment is an excellent document—with the right to appeal to a normal judicial court by tenants as well as landlords.

For new construction: Increase supply and create jobs by reducing property taxes, shortening and streamlining new building permits, reducing power of ratepayers associations and assuring investors that there will not be new controls in the future. However, it might be difficult to regain the builders' trust by now. Assist that small minority of tenants who really need subsidy by decreasing income tax through an Ontario tax rebate.

Conclusion: Governments cannot expect private industry to act as a welfare institution for rent subsidies forever. There has never been a free lunch and there never will be. Sooner or later the day of reckoning will come.

Ladies and gentlemen, let's free enterprise. Thank you.

**Mr. Chairman:** Mr. Weidlin, thank you very much. Before Dave Warner starts pounding the table in support of that conclusion, I think we should move on.

**Mr. Warner:** I didn't say a word.

**Mr. Chairman:** Thank you very much, sir, I appreciate the time and again apologize for the delay. Mr. Amonsens?

**Mr. Amonsens:** Thank you, Mr. Chairman. I must say I'm a little disappointed to be that late. I can appreciate the situation, but I think in due respect the people who hogged the floor had no right to do it to us. I was told to be here at 2 o'clock. I am a strong believer in 10 or 15 minutes to each statement as a good guideline.

With respect to my petition. I will read it, it's fairly short, and add a few remarks to it. You will find enclosed copies of my correspondence to the rent review board, the Ombudsman's office, my tenants and an evaluation of a year ago.

My increasing frustration with the rent control program should become obvious from reading the enclosed material. I would like at this time to read a bit from the Ombuds-



man's letter to me. I would imagine this letter must have cost the Ombudsman's office about \$1,000 to prepare. That's the reason Mr. Maloney probably had to ask for all that money.

It says on page two: "I came to the possible conclusion that the board exercised its discretion improperly in not permitting the increase applied for by the landlord, that the tenant had agreed to in a tenancy agreement dated January 13, 1976, as provided for in section 4(5) of the Residential Premises Rent Review Act."

Accordingly, I reported my possible conclusion to the chairman of the Residential Premises Rent Review Board. He carried on with that and he even had agreed to at one time to pay my legal costs to sue the Rent Review Board. I figured with the 14-suite apartment building I owned that it has cost me about \$2,000 already at that time to go to the Rent Review Board to get \$500 more a year rent. By that time, I said forget it.

My letter written to Arthur Maloney was self-explanatory. I hope you had a chance to read it. I will take a few excerpts from it at this time because it gives a little indication of the background for it. I mentioned in my letter that the building was purchased in 1966. I renovated the building over the years equal to an expenditure of close to \$250,000 at today's cost. I tried to accommodate my elderly tenants as compassionately as possible.

The apartment for which the Rent Review Appeal Board decision is particularly distressing is known as apartment B. It was occupied by the same tenant from 1928 until July 31, 1975, when she vacated of her own accord to rent a subsidized senior citizen's apartment. In 1968 the monthly rate for that apartment was increased to \$140 per month when the entire apartment was refurbished including a new bathroom and kitchen, new appliances, et cetera. The apartment is about 700 square feet, consisting of a large living room, separate dining room, kitchen with breakfast area and one bedroom. The rent requested even at that time was considerably below market rent.

In 1971 the rent was increased to \$150 per month—that's after three years, a \$10 a month increase—and remained as such to July 31, 1975. We are talking about four and a half years. In August 1976 the apartment was redecorated extensively, and since the oak trim has been retained and stained throughout the building at great expense, our decorating costs are very high because all woodwork has to be taped before painting takes place.

After having lost a month's rent because of the redecorating, the apartment was rented from September 1, 1975, to a couple in their 60s for \$185 per month. The only reasons for the rent being this low were because the new tenants promised to help keep an eye on the building during my occasional absence and because of my previous acquaintance with their son. This son happened to be Alderman Eggleton.

An agreement between the landlord and the tenants covering the period September 1, 1975, to December 31, 1975, was submitted to the rent review office. This document, together with other similar agreements, was apparently mislaid in the rent review office since they were not in their files at the time the decisions were made. Also, it was overlooked that there had been a change of tenancy in September 1975. Both facts can be confirmed by the rent review officer, Mr. P. Loftus, who advised me to appeal the case. I hope you remember that.

The appeal board decision affirmed the rent review decision allowing an increase of only \$13.90 per month from September 1, 1975. That is after there had been no increase since 1971. How do you expect a landlord to provide housing with a rent increase of nearly \$14? My God, \$14 from 1971 to 1975 and a further increase of \$18.29 per month from January 1, 1976, to December 31, 1976. I am now renting that apartment for two-thirds of what similar accommodation in the building would rent for.

The average increase permitted since 1971 is something in the neighbourhood of three per cent a year. I feel it should be my prerogative to decide if I want to subsidize a tenant and in what amounts, and a three per cent increase a year is absolutely ludicrous when the old tenant moved of her own volition.

The argument used by the Rent Review Appeal Board that it couldn't go beyond January 1, 1974, is completely unacceptable. What about four- and five-year leases when they come up for renewal?

In the meantime, I have seen my disposable income from this building deteriorate to nearly a third of what it was three years ago. All that was left last year, after about 1,500 to 2,000 hours of my personal labour, and on an investment exceeding \$250,000, was about \$7,000, gentlemen. I can prove it. I have even written letters to my tenants, where they have in writing that they can go through my books. They are available at any moment; I have nothing to hide. If you want to see my personal income tax, you can see it too. I have nothing to hide. It's

available for anybody, even Mr. Duksza, who is not present. He is my neighbour, as a matter of fact, just on the other side of High Park.

In my experience as the owner of an old 14-suite apartment building, and as a real estate agent and broker since 1959 involved in building management, and as chairman of our local residents' association, I have found those hardest hit by the rent control program to be the small landlords, particularly those in owner-occupied buildings who had previously given consideration in the form of lower rents to tenants of long standing, only increasing their rents to the market rent when a vacancy occurred. This was a very, very common relationship between landlords and tenants for small landlords.

The overriding costs are generally substantially higher per unit than experienced in buildings of 100 suites or more. They are generally older buildings and without CMHC long-term financing at reduced rates. The buildings right behind me are Cadillac's; seven to nine per cent financing on a 25-year period. I have paid up to 13 per cent interest for a first mortgage on my building and my financing is only 30 per cent of the total value of the building, or even less than that today. I had to pay 13 per cent.

Over the past three years our apartment buildings in Metropolitan Toronto have rapidly deteriorated in general appearance, inside and out. Neither the money nor the incentives have been there for the owners to keep them up, and they have become a serious drag on the real estate market that can only be worsened if the controls are continued.

If real estate taxation as proposed, based on market value assessment, is to be phased in over several years, its impact will be negligible in improving the investment climate for apartment buildings and should be no deterrent to cease the rent control program, at least for buildings of 100 or fewer units.

The inequities created by the rent control program between rent for similar apartments in the same or neighbouring buildings is getting worse every year as a result of the permitted percentage increases. The special neighbourly relationship which previously existed between some small landlords and their tenants is rapidly being replaced by the adversary system, to the detriment of both.

I have a tenant who had a stroke. They have been in the building for 10 years and I felt sorry for them, so they had a very low rent increase. I think over a three-year per-

iod it amounted to a total of \$10. But the new rent review officer said to me I have to carry on that subsidy to the new tenant.

I think it should be my prerogative, if I wanted one of my tenants on compassionate grounds to have a cheaper rent, to be able to give them that cheaper rent. Well, no, I can no longer do it; if I have a good tenant I'd adjust them the same as for a bum tenant. That is a prerogative that has been taken away from me.

I happen to be a peculiar landlord. I only have, and you can see it in my books, \$65,000 against a building that is worth, in replacement value, \$650,000. But I can only get \$300,000 to \$350,000 for it because of rent review. I have tenants lined up in front at my front door. They are on a waiting list to move in. One even said to me, "I think I know a way how you can increase the rent of this apartment by \$100 a month." And that was my own tenant!

Another tenant started to sell his lease, in the form of trying to ask an exorbitant price for his broadloom. I said, "I've released you from your lease agreement." He'd bought a house. "I've released you," I said.

"Oh, no no no! I want so much for my broadloom."

I said, "Come on, that broadloom you bought at a discount from my supplier. You got it from my guy." He had to have more than he paid for the damned thing, so he tore it. Call it whatever you want.

I can only most strongly urge that the administratively costly rent control program be lifted as soon as possible, particularly for small apartment buildings.

I want to point out to you one of the things that you run into in the rent control situation. I was given a guide for rent review officers to average costs, for them to set the cost when they had to review. Down there the cost per unit per year for a superintendent was \$50 to \$55. No one can have a superintendent in a small building for that kind of money; it's \$100, so you are licked right there.

Janitorial, all right, you might get away with \$50 per unit; building maintenance depends upon the type of building, but I certainly can't get away with \$100 to \$120 per unit per year. It costs me about \$1,400 to redecorate a suite like I have there every time. This is an exclusive building. Even the Star had nearly a half-page article about when it was renovated. It is one of the fine of the old apartment buildings left in the city of Toronto.

I came in front of the rent review officer and tried to argue that with him and I



couldn't believe it. He goes back to his schedule and that is what he allows me. As long as I am prepared to work on my own volition for nothing—I am getting \$7,000 as a return on \$300,000—this thing can carry on. But if I sold the building, which I am fortunately still permitted to do, and say I sold it for \$350,000 and they put a new mortgage on it for \$200,000 or \$250,000, which is a normal-sized mortgage for that building, the new owner of that building would be permitted, under the Rent Review Act, to pass through to the tenant the cost of the new mortgage in the form of an \$80 a month increase in the rent. But I can't do it.

Now, that's fair play? I don't think it is. I think it's obvious that there is something wrong here. I regarded the building when I bought it as my old age pension fund and my wife's security as a life insurance policy if something happened to me. But now I am locked into a situation where I can hardly give the project away. Thank you.

**Mr. Chairman:** Mr. Amonsén, thank you for taking the time. I think we have to do two or three things. We've got representatives from each of the caucuses to speak to that travel day, May 17. To start the conversation, Mr. Feldman who was obviously aware of our discussion last week, suggested that we take the three centres—Thunder Bay, London and Ottawa—

**Mr. Breithaupt:** Have you decided against Sudbury?

**Mr. Chairman:** No.

**Mr. Breithaupt:** Or is it just a suggestion?

**Mr. Feldman:** I was using the argument that I heard last week that if you were using the accessibility criterion, Sudbury had reasonable accessibility to Toronto. Clearly Thunder Bay does not, under those terms. I wasn't expressing a preference, but it seemed that—

**Mr. Epp:** There are about 16 members of the committee?

**Mr. Breithaupt:** Yes.

**Mr. Epp:** I wonder whether it would be reasonable to include Sudbury, Thunder Bay, Kingston and London—four areas. That way you would have at least three members on the committee and one from each party and it would still give you some flexibility if one or two or three couldn't go. Hopefully, they wouldn't all be from one party.

**Mr. Chairman:** That would cover the problem that came up about trying to do two in the north. What were the four again?

**Mr. Epp:** Thunder Bay, Sudbury, Kingston. Pardon me, I wouldn't go to Kingston.

My own preference would be to go to Ottawa. The reason I say that is that unless I am persuaded otherwise, I don't think the problem is in Kingston. Why make it inconvenient for the people from Ottawa to go to Kingston when the problem is in Ottawa? The people from Kingston could either go to Ottawa or to Toronto, but I don't think there is a great problem in Kingston, as I indicated earlier. Then we could go to London. That is not too inconvenient—or Windsor, I'm easy.

**Mr. Chairman:** I would do all these four, then, possibly on the one day with two or three members of the committee at least at each of these locations.

**Mr. Warner:** That's not a bad suggestion. I think Ottawa is preferable to Kingston. There is a problem in Kingston but it's a very specialized one and that is the 10,000 university students which comprise about one fifth of the population. It's a very strange population mix. The rental housing is mostly in terms of accommodation for students—obviously for part of the year, not for the whole year. It is a unique situation, but Ottawa is more the normal rental situation as you might find it in Toronto or Hamilton, et cetera. The only thing about doing four in one day would be in terms of our consultants.

[4:30]

**Mr. Feldman:** Let me send one person to each of the places—

**Mr. Warner:** You could supply four, as opposed to three?

**Mr. Feldman:** Yes.

**Mr. Warner:** That sounds good.

**Mr. Chairman:** Herb, I think that's a good idea, actually.

**Mr. Breithaupt:** I suppose there are two things to consider—the consultants may feel they have to be present. They have I'm sure absorbed today, but if we are to ask for written submissions from people who are there, if possible, and if we are then able to make notes of those persons who simply wish to address the subcommittee, we should be able to complete very quickly a full package of material that would convenience any member who was unable to attend. It would also ensure that each of us would have the benefit of the items received from the other locations. I think it can work out quite practically.

**Mr. Warner:** It seems to me there are a couple of other details. One would be the advertising in the local paper as to time, date and location, and that we have a loca-



tion in each of those areas which is easy to get to—that's central.

**Mr. Breithaupt:** A municipal building would be good.

**Mr. Warner:** Yes, Thunder Bay has not a particularly good transit system so we have to be located downtown.

**Mr. Breithaupt:** We used the city hall in London on the occasion that our select committee on company law was there and that was just fine. Quite satisfactory.

**Mr. Warner:** In terms of the travel and whatever expenses would be incurred by the committee, I understand we don't have a budget, do we?

**Mr. Chairman:** Technically, that's still correct, but—

**Mr. Breithaupt:** There will be some expenses.

**Mr. Warner:** Whatever mechanics are involved must be taken care of. I assume it has to go to the Board of Internal Economy.

**Mr. Chairman:** Yes.

**Mr. Warner:** Is it your intention that we go to those centres on Tuesday night?

**Mr. Chairman:** I don't know that we're going to have time Tuesday night, simply because we sit till 10:30 and—

**Clerk of the Committee:** Go on Wednesday morning and come back Wednesday night?

**Mr. Breithaupt:** It depends on the Thunder Bay flights, I would think.

**Mr. Chairman:** Yes.

**Mr. Warner:** I think there's a flight at 7:55 in the morning. You're going to have to get up early for that. It's really attractive.

**Mr. Epp:** The problem is when do you get back? I believe Transair has a flight at 8:05 p.m., coming back.

**Mr. Breithaupt:** If there is a large number of people who wish to come before us, it may be necessary for the committee to do its travelling on the Tuesday evening so that they're in place in the various localities first thing in the morning—convenient, fresh and ready to go to deal with what might be a volume of requests. While we could take morning flights or whatever, it means that you're in a rush and your meetings are going to start at 10 or 11 or whatever and that might not be suitable, depending on the response. We'd have to consider what the travel requirements might be.

**Mr. Chairman:** Can we agree on the four centres?

**Clerk of the Committee:** Yes, and where we'd want to have the meetings.

**Mr. Chairman:** And the nature of the ad?

**Mr. Breithaupt:** Those four are fine.

**Clerk of the Committee:** In Thunder Bay, John, where could we meet there that would be handy to everyone?

**Mr. Gustavson:** If the main council chamber is available at city hall, I'd suggest that's the most central and most convenient. There are certainly large meeting rooms available at the Ontario government building if necessary but it is somewhat more inconvenient—I'd suggest going downtown.

**Mr. Warner:** How about the courthouse? Then we could go fishing at the same time.

**Mr. Feldman:** Mr. Chairman, I wonder if it might be useful if in the advertisement that's placed there was some sort of deadline date for people to notify you of their intent to appear. It would give the committee, generally, an idea—for example, I can envisage that in some places you may have to consider going on into the evening. That way at least you would have a handle a week before on what you are facing.

**Mr. Breithaupt:** I suppose you really can't preclude anyone who just arrives and wants to be heard, but at least it would give us an idea of the likely ratio.

**Mr. Warner:** Unless I'm mistaken, I would think that there would be a sufficient number of briefs in each area that we would want to begin at 9 a.m.

**Mr. Breithaupt:** I would think so.

**Mr. Warner:** And the afternoon at least, I don't know about the evening, but at least those two. If we get started and do the thing, in practical terms I would just as soon that we went the night before and we were ready to start fresh at 9 a.m. In most cases you could leave here at supper, after the afternoon sitting, you could leave and go to those centres.

In terms of the ad, I would appreciate an ad slightly different from the one which was originally placed in the dailies; the heading being "The Rent Review Committee" instead of "General Government." I don't really think that all the good folks out there—

**Mr. Breithaupt:** Just "Rent Review" in heavy letters, to get people's interest.

**Mr. Warner:** Yes.

**Mr. Walker:** I've had some criticisms that follow along the same lines as David Warner's. It might even be a little more succinct to say that we're looking at the question of rent control, because 99 per cent of the public haven't figured out what this rent review thing is. I would think that it

might be appropriate for us to include that in the ad in such a way that those reading the ad can figure out what we're doing in the committee.

**Mr. Chairman:** If we make it a really catchy ad we'll draw big crowds; we'll be there for a week; that's good.

**Mr. Breithaupt:** As long as you're going to pay for our room and meal allowance, I suppose we could stay forever.

**Mr. Walker:** What day were you choosing?

**Mr. Chairman:** Wednesday, May 17, will have to be the day.

**Mr. Warner:** What about recording?

**Mr. Chairman:** I don't think it's practical.

**Clerk of the Committee:** We approached the Hansard office. They can't supply people. They went down to the Speaker and the Speaker said no, they can't supply people.

**Mr. Breithaupt:** We can make our notes and have them transcribed.

**Mr. Warner:** Then I would think that we should all understand that our procedure in each of these centres will be for the purpose of receiving briefs and questioning those who have submitted briefs, but no debate of the items at issue. As long as we understand that, I don't want to be doing that without Hansard.

**Mr. Breithaupt:** Oh, I think that's entirely appropriate.

**Mr. Chairman:** Anything else? Herb?

**Mr. Epp:** Two things: What's happening next week? Is it Monday night and Wednesday night, or just Monday night?

**Mr. Chairman:** It is Monday night for certain.

**Clerk of the Committee:** Monday night; we've avoided Wednesday night so far, but it might come to that.

**Mr. Warner:** Next Monday?

**Clerk of the Committee:** Yes, it's Monday night.

**Mr. Epp:** And the other thing is—

**Mr. Chairman:** At 8?

**Mr. Breithaupt:** If it's a great number of people, could we get a few there earlier?

**Clerk of the Committee:** Seven? Try 7?

**Mr. Chairman:** I would think so.

**Clerk of the Committee:** Okay.

**Mr. Breithaupt:** Well I'm game for it. Those of us that can, I think 7 is better than 8.

**Mr. Warner:** Three of us for sure can't; Tim and myself and Gord Smith. We have company law on Monday night, do we not?

**Mr. Breithaupt:** No, the following week.

**Clerk of the Committee:** Aren't we meeting this Monday?

**Mr. Warner:** Fran says May 1.

**Clerk of the Committee:** I thought it was May 1 for company law; next Monday and the following Monday.

**Mr. Breithaupt:** I'm sorry, yes you're right; it is the first and the eighth. However, that only includes one of our four members so—

**Mr. Warner:** As it works out, one of each caucus, so that—

**Mr. Breithaupt:** Sorry, I had forgotten about that; but yes, that would preclude my attendance that evening at least for a while.

**Mr. Warner:** We're starting at 6 and with any luck we'll be finished in time.

**Mr. Epp:** There's one other matter. For the purpose of clarification, when we go to these various centres I was going to recommend that you be chairman of one area and that the chairman of each of the other parties, they each have a chairman. I think Jim Breithaupt is ours, and I think—

**Mr. Breithaupt:** I don't think it's too important. We'll just sort out whoever's there and do it.

**Mr. Epp:** Gives a good balance and everything.

**Mr. Warner:** That's a good idea.

**Clerk of the Committee:** I need some suggestions as to papers.

**Mr. Chairman:** Papers?

**Clerk of the Committee:** For up north.

**Mr. Chairman:** Oh yes, where we should advertise.

**Clerk of the Committee:** What we should advertise in, because we wouldn't want to do every paper up north.

**Mr. Warner:** There's a Thunder Bay daily?

**Clerk of the Committee:** The Thunder Bay paper, that will catch the people there.

**Mr. Breithaupt:** I would think that it should be the daily papers in each of the communities, because you're really looking at the larger centres, I would think, where you're expecting there will be a concern as opposed to the people who are relating to the weekly papers; at least I would think that's the burden.

**Mr. Warner:** In Ottawa, I think in fairness it should be the two papers, the Citizen and the Journal.

**Mr. Breithaupt:** Yes.

**Mr. Epp:** "Today" is dead.

**Mr. Warner:** Yes, you're right, it's finished. In London, I guess it's just the London Free Press. In Sudbury, is there just one paper in Sudbury?

**Mr. Breithaupt:** Sudbury Star.

**Mr. Warner:** Sudbury Star, that's it?

**Mr. Breithaupt:** I think so.

Interjections.

**Mr. Gustavson:** In Thunder Bay there are two dailies; the morning daily tends to be more regional and go out to the outlying communities, the Times News.

**Clerk of the Committee:** You didn't go to Sudbury, did you, with company law?

**Mr. Breithaupt:** No, I went to London.

**Clerk of the Committee:** Do you remember that place where we had the meeting, apparently that was very convenient. Would it be all right with the committee?

**Mr. Warner:** What is that?

**Clerk of the Committee:** The place where we met in Sudbury.

**Mr. Epp:** Peter Piper; Peter Piper Inn?

**Clerk of the Committee:** No, it wasn't.

**Mr. Epp:** There is a new civic centre.

**Clerk of the Committee:** It was likely in the civic centre; shall I make reservations then?

**Mr. Chairman:** Just before everyone leaves, Scott McAuley was with us all day today. I did not have an opportunity earlier to introduce him, I should have just interrupted. Remember we had asked of the Attorney General's office if counsel could be provided to our committee, and Scott McAuley is with us as counsel, just back from holidays yesterday apparently.

**Mr. Breithaupt:** For the Liberal caucus, Mr. Epp will go to Thunder Bay; Mr. Hall to Ottawa; Mrs. Campbell to Sudbury; and I'll go to London.

**Clerk of the Committee:** You'll go to London.

**Mr. McAuley:** Mr. Chairman, could I just make one or two remarks? First of all, "counsel" is just a handy handle. This is certainly not, at least in my personal view, an adversarial situation, so I'm not a counsel in any technical sense, of course. You conduct your own examinations, and you conduct your own cross-examinations. I would prefer it, really, if you would view me as one of your legal advisers. Being with the AG's office, I am familiar with the Landlord and Tenant Act. Rent review is a bit out of my scope, but you have tremendous resources you can call on; you've got all kinds of legal people in Consumer and Commercial Relations. There are other people—lawyers, economists, et cetera, in our ministry and the Ministry of Housing, so you have a pretty good resource base.

I just don't want you to get the impression that I'm fully cognizant of all three areas—housing, rent review and landlord and tenant; I am not. I expect I will become an overnight expert though.

So given those caveats, that's all I have to say. Thank you, Mr. Chairman.

**Mr. Chairman:** I have a letter from Lionel that I wanted to distribute. Time does not permit us to go over it, but I have copies of it. Fran, if you would be good enough to get them to everybody as soon as possible. Perhaps you could distribute them now.

**Clerk of the Committee:** I've got them here.

**Mr. Chairman:** Take them to your colleagues who aren't with us.

**Mr. Feldman:** Just an attempt to set out some very brief terms of reference of how you might make best use of us; I think that in fairness to everybody, it would be better if there were a few more members present, particularly for one of the items.

**Mr. Chairman:** Is there anything else? So it's Monday night, we are going to try for 7 o'clock, rather than 8, here.

The committee adjourned at 4:45 p.m.



## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
Campbell, M. (St. George L)  
Dukszta, J. (Parkdale NDP)  
Epp, H. (Waterloo North L)  
Hall, R. (Lincoln L)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Scrivener, M. (St. David PC)  
Walker, G. (London South PC)  
Warner D. (Scarborough-Ellesmere NDP)

**Witnesses:**

Amonsens, I., Ib Amonsens Real Estate Limited, Toronto  
Krehm, W., O'Shanter Developments Company, Toronto  
Swords, C., Parkdale Community Legal Services, Toronto  
Weidlin, R., Toronto

**From the Ministry of the Attorney General:**

McAuley, V.F.S., Counsel

**From the Ministry of Consumer and Commercial Relations:**

Gustavson, J., Executive Assistant to the Minister

**Assisting the committee:**

Feldman, L.D., Lionel D. Feldman Consulting Limited, Toronto



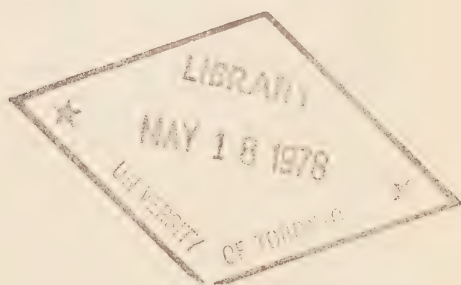


# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



**Second Session, 31st Parliament**

Monday, May 1, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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# LEGISLATURE OF ONTARIO

MONDAY, MAY 1, 1978

The committee met at 7:11 p.m.

## TENANT PROTECTION

(continued)

**Mr. Acting Chairman:** I call the meeting to order. Mr. McCaffrey is your regular chairman and will be disappearing shortly for another urgent matter that he has to attend to this evening. He has asked me to sit in as chairman.

Members of the committee have before them a list of the delegations we expect to hear tonight and the list has been prepared on basically 15-minute centres which means it's going to be rather tight to hold on to this. I know most members fade completely about 10 o'clock and probably don't hear a thing after that, so in fairness to everyone, I would hope that we would be able to retain the 15-minute objective. I realize this will require members of delegations to keep fairly tight on their presentations but I think the committee members will get more out of it that way.

It's going to be an evening when a lot of points will be made and it will take a lot of concentration on the part of all the members to keep all those points in mind. Members of the delegations, if you can keep your comments phrased as closely as possible to points, this would be most appreciated by the members and most welcome.

**Mrs. Campbell:** Perhaps, Mr. Chairman, the members should be disciplining themselves as well.

**Mr. Acting Chairman:** That's true, Mrs. Campbell. My suspicion is that question after question after question may involve us into a very late evening. I think that in fairness, members, it might be better if we invite the delegations to return if there's a particular area that we would like to spend a great deal of time on so that we do not short-change anyone. Everyone has come here this evening expecting a certain amount of time and so I am going to try to honour that as closely as possible and I would ask the members of the committee particularly and members of the delegations to respect that.

The first delegation to be heard this evening beginning at 7:15 is the 25 Duncanwoods

Tenants' Association led by Pat Hanley. Would you come forward, Ms. Hanley? Take a chair in front of the microphone or, if you wish, you may stand at the lectern. Following this, we have a delegation at 7:30 from 33 Eastmount Avenue Tenants' Association; and it's led by Gail Harrison.

[7:15]

Starting with yours, Ms. Hanley, perhaps you could introduce yourself and your organization and give us a very quick thumbnail sketch. A brief will be distributed and every member of this committee will have a copy and be able to follow any of the points. They will be able to refer back to the brief, so, Ms. Hanley, you may want to highlight what's in the brief. Perhaps that's the easiest way. Would you describe your organization and tell us who you are and who you have with you?

**Ms. Hanley:** May I stay here?

**Mr. Acting Chairman:** Yes, please do. Please be as comfortable as you can. You are not under oath so it is not one of those strange committees that make life very difficult.

**Ms. Hanley:** My name is Pat Hanley. I live in 25 Duncanwoods Drive, Weston, Ontario. I am secretary on the committee for the tenants' association which is affiliated with the federation. Tonight we made out this brief for you all and we have the signatures of the tenants in the building.

We support the rent review program and what we really find is that a lot of the people who are beginning to move out are those who have been living in this building four, five and six years. Normally, we had the odd percentage who moved in and out every year but mostly people would leave this particular building only if they were buying a house.

In 1975 before the rent review came on the rents were increased by 25 per cent. Since that time they were given an eight per cent increase. The building was then sold in 1977 and the new landlord made an application to the rent review office to have a 12 per cent increase approved. This is when we started holding general meetings in the building because the people living

there just couldn't afford this 12 per cent increase.

After this we joined the federation, because we felt the landlord was very unfair with us. He wanted a 12 per cent increase and the maintenance was getting very bad and we felt he didn't even want to meet us half way. He didn't want to listen to our complaints or anything. We really feel we need this rent review program kept on. It's very important to a lot of people because we have a lot of married couples with only the husband working. So they have only one wage going in every week, and they just couldn't afford to meet what the landlord would ask if the rent review program were taken off.

**Mr. Acting Chairman:** Would you like to make a comment, sir?

**Mr. Goetz-Gadon:** I'm here with Pat Hanley from the Federation of Metro Tenants' Associations. This is a tenants' association that I've worked closely with. I would just say that the information in this brief as I know it, is pretty factual. The building has been in an abominable shape. One of the great values of the rent review process is that we've been able to make a lot of the concerns of the tenants known to the new landlord who in many ways wasn't familiar with a lot of the problems of his own management.

Interjection.

**Mr. Duksza:** There are a couple of questions. How many units are in the building?

**Ms. Hanley:** One hundred and forty-five units.

**Mr. Duksza:** It's an old building?

**Ms. Hanley:** It's eight years old.

**Mr. Duksza:** Do you remember why the nine per cent increase instead of six was allowed? What was the reason given?

**Ms. Hanley:** He had three mortgages on the building when he bought it.

**Mr. Duksza:** So when the building changed hands, in effect he passed on the refinancing to the tenants?

**Ms. Hanley:** Yes.

**Mr. Duksza:** That's really the main point I wanted to make. It concerns me constantly that the rent review legislation as it exists right now allows this to happen.

**Mr. Epp:** I understood Mr. Philip to say that the abominable shape of the apartment units was as a result of rent review. I am wondering whether I can have some clarification on that. Did you say it was in good shape until rent review came in and all of a sudden it deteriorated? Or had it de-

teriorated appreciably before that and it has just deteriorated further?

**Mr. Philip:** I think what I said was that as a result of the rent review process the new landlord became aware of the abominable way with which the building was managed. I also felt that part of the rent review process is creating a dialogue between an owner who often is an absentee owner and the tenants, and thereby getting corrections and improving the management of the building.

**Mr. Epp:** As I understand it then it is more the general maintenance, the cleanliness and so forth, rather than the plumbing, et cetera?

**Mr. Hall:** Just so I have somewhat of a feel for the situation and the percentages, what actual dollar amount of rent would be fairly typical for the building now?

**Ms. Hanley:** I'd like to answer this one. It is very mixed up. First of all you have somebody in a one-bedroom paying \$253. You have a tenant in a two-bedroom paying \$313. Then you have a tenant in a three-bedroom paying \$280. It is really mixed up.

**Mr. Acting Chairman:** I see what you have to say about the management.

**Ms. Hanley:** The landlord had asked other tenants for a 12 per cent increase in February. Just after this increase a woman moved into a three-bedroom and he only asked her for a six per cent increase. She asked why was she not asked for a 12 per cent increase and he said because she was paying too much. Yet she is only paying \$280, and he is asking \$313 from people in a two-bedroom. So it is really mixed-up management to us.

**Mrs. Campbell:** Was any part of this in effect prior to rent review, before this sort of took the status quo?

**Ms. Hanley:** Yes.

**Mrs. Campbell:** There were mixed-up rents there prior to rent review?

**Ms. Hanley:** Yes, before the rent review program started—I think it was four years ago—he asked for a 25 per cent increase. The people who were actually up for rent review last week had to pay this. But then the rent review program came on and the other people only had to pay eight per cent.

Also with people moving in and out—we are not sure, but we have found one or two mistakes where he has raised the rent twice if someone sublet it. Usually when you get a new tenant they don't ask the previous tenant how much he was paying so they don't know any better.



**Mr. Ashe:** For clarification: After going to the rent review office, the 12 per cent asked for was justified, I assume, to nine per cent because that is what they granted. There seems to be some indication—not directly said by you, but picked up by others maybe based on something you said—the continuation of rent review would upgrade the quality of maintenance in the building. That one escapes me. Can you explain how you would see that working?

**Ms. Hanley:** Okay. The manager says at rent review that he is paying \$200 or \$300 a month for the plumber to come in to repair washers, et cetera, which was not true—the superintendent does minor jobs like that. Then the rent review officer asked him for proof—for contracts and that—and we found also that he would have a lot of money down for painting and things like that which were never done.

**Mr. Ashe:** So you are really talking more about having to prove those things in front of the rent review officer rather than factually

**Ms. Hanley:** Yes, which he is doing but it is getting done in May, in July.

**Mr. Ashe:** It seems to me that in many situations that have been drawn to my attention—usually by smaller landlords, I must say—their complaint with rent review, if you will, is that they can't afford to do the maintenance they would like to because they're "losing money now," or you can say they are not making the money they feel they should. If you're keeping that down even further, that obviously would suggest usually a deterioration in the level of maintenance rather than an increase.

Just one last question, Mr. Chairman, and then you can move on—

**Mr. Duksza:** That was a bit of a non sequitur on your part. I don't think what you've just said should go unchallenged. If you want to say things like that, you should look at the figures of the landlord before you jump to the conclusion that there is a connection.

**Mr. Acting Chairman:** I think that we should save that for argument.

**Mr. Duksza:** If he is going to ask such questions, I am going to respond to those questions.

**Mr. Ashe:** You do that all the time. I am just picking up; I have had good teachers.

**Mr. Duksza:** You have learned the wrong thing, then.

**Mr. Ashe:** Do you feel the rent problem in Metropolitan Toronto and many metropolitan

areas would be solved if building permits were issued tomorrow for 50,000 rental units? You realize what I am saying. One of the problems in raising rents is the shortage; so the landlord can get what the traffic will bear.

**Mr. Samis:** That's very facetious.

**Mr. Ashe:** No, I am just asking an opinion of a tenant. Mr. Chairman, I feel it is quite an appropriate question to ask, whether it be a tenant or a landlord.

**Mr. Makarchuk:** You make an assumption—

**Mr. Ashe:** We know the philosophical position of the members opposite—

**Mr. Makarchuk:** Wait a minute—

**Mr. Acting Chairman:** Order.

**Mr. Makarchuk:** But you make an assumption. You say there's a shortage of units and that causes the problem.

**Mr. Acting Chairman:** Order, please.

**Mr. Makarchuk:** If you want to ask a question, ask a question; but don't make an assumption and then ask a question.

**Mr. Ashe:** I did ask a question.

**Mr. Acting Chairman:** Order: I'm going to end up breaking this gavel in a minute.

**Mr. Makarchuk:** We'll hold you responsible for destroying government property.

**Mr. Acting Chairman:** Do you wish to answer that question, Ms. Hanley?

**Ms. Hanley:** No.

**Mr. Acting Chairman:** Mr. Samis, would you go ahead? We have a couple of moments left.

**Mr. Samis:** You've invoked closure on Mr. Ashe, have you?

**Mr. Acting Chairman:** Yes.

**Mr. Samis:** I just have one simple question. Your petition says in the last paragraph you want the continuation of rent review in the future. Could I just ask if you have given any consideration, leaving out landlord-tenant relations, to what form you would like it to continue in? If the answer is no, please don't be afraid to say so.

**Ms. Hanley:** We would like it to stay the way it is.

**Mr. Samis:** With the six per cent ceiling?

**Ms. Hanley:** Oh yes. No more. Your wages don't go up that much every year.

**Mr. Samis:** The AIB is now, fortunately, a relic in our history. If the inflation rate were to increase to a higher percentage, would you concede that there might be some need for adjustment in the figure of six per cent?

**Mr. Goetz-Gadon:** My name is Sean Goetz-Gadon and I work for the Federation of Metro Tenants' Association. I have been working with Pat on the brief. We would probably feel it should be a justified increase. We don't feel the increase should be 12 per cent or whatever inflation is. It should be justified in terms of what the costs are for continuing that building in good maintenance.

**Mr. Acting Chairman:** I am not sure that opinion was reflected by the Metro tenants the other day. Is that their impression or is that their decided position?

**Mr. Goetz-Gadon:** In fact, it is still being debated to some extent, if you wish. But, as far as I am concerned, that is my opinion.

**Mr. Samis:** Thank you, Mr. Chairman.

**Mr. Acting Chairman:** We do have the benefit of your brief, Ms. Hanley, and we have the benefit of the signatories to your brief. These will be recorded as an exhibit to the committee meetings and will be available for members to peruse in some more depth at a more appropriate moment. I want to thank you very much for making your presentation and for coming before us and offering your views and those, presumably, of the people who have been identified as residents of the association here. Thank you for coming forward.

I wonder if we could have now the 33 Eastmount Avenue tenants' association; Gail Harrison?

[7:30]

**Mr. A. McMurray:** My name is Al McMurray. I am the president of the tenants' association at 33 Eastmount Avenue.

**Mr. Acting Chairman:** Would you very briefly describe 33 Eastmount Avenue for us, the size of the building, the number of tenants?

**Mr. A. McMurray:** It is located at Broadview and Danforth. We consist of 211 units; 200 in the apartment building, 11 in the townhouses.

**Mr. Acting Chairman:** We have a copy of your brief in front of us. We will have a chance to read it at a more appropriate moment when we digest all the information that is before us. How would you like to handle this? Would you like to highlight points in the brief? Would that be the easiest way for you?

**Mr. A. McMurray:** All right. On the first page, the third paragraph points out that the rents in this building have increased an average of \$100 in the last three years. In November 1977 rents were increased in the neighbourhood of 22 per cent. Rent review drop-

ped this down to 11 per cent and the appeal lowered it down to seven per cent.

We just had another rent review in March, 1978, March 14 actually. The results of this hearing have just come down, two or three days ago, and they range from four to 10 per cent.

**Mr. Acting Chairman:** This applies to all units?

**Mr. A. McMurray:** There were 84 on the last hearing.

**Mr. Duksza:** Wouldn't it be easier if you just read the thing? I find this way difficult to follow. It is quite short.

**Mr. Acting Chairman:** Why don't you do that? Why don't you just start through it, Mr. McMurray?

**Mr. A. McMurray:** Okay. We are representing the tenants of 33 Eastmount Avenue, which is located at Broadview and Danforth Avenues. Well over half of our tenants are members of the Eastmount Tenants' Association which has one of the largest memberships in the city. The tenant association was initiated in this building over a rent strike 10 years ago. Due to rent review, this type of action hasn't been necessary since 1975.

We would like to propose that a standard form lease is essential as previously tenants in this building were charged an escalation of well over \$100 in most cases, which was upheld by rent review. Rents in this building have increased an average of \$100 in the last three years, i.e. from \$240 to \$355. In November 1977 rents were increased in the neighbourhood of 22 per cent. Rent review dropped this down to 11 per cent and the appeal in March of 1978 lowered it again, down to seven per cent.

In the early part of 1978, other units were requested to pay a 15 per cent increase, resulting in yet another rent review hearing in March 1978. Results of this hearing have just been issued ranging from four per cent to 10 per cent. As you can see, rent review has been very successful in protecting us from unaffordable increases, but further improvements are still necessary to rent review as it is now.

This building has had major rent increase requests for which Mr. Speich, repeatedly, at hearings, has been unable to substantiate the need. Tenants are forced to take a great deal of time from their jobs in the hope of having their rents increased at a reasonable rate. We have three to four hearings each year as well as appeals and much time is spent by the tenants.

We would like to touch on the matter of maintenance. Our feeling is that much time



and money is spent on poor quality work which the tenants are paying for in their increases. In my own case, I've had one outside wall of my living room plastered three times in less than a year and it is badly in need of plastering again. This is typical of repairs we see in our building. The flooding on our east wall has affected apartments from the penthouse down to the ground floor, which is 25 floors. This has been going on for over three years and despite this tenants are receiving large increases and absolutely no reimbursement for damages to personal property; and reimbursement for hotels et cetera during the flooding has been denied.

If these problems were tied in with the rent review and the Landlord and Tenant Act these problems could be taken care of more efficiently. Because of this, we support the Federation of Metro Tenants' Associations' proposal for a one-body tribunal to deal with landlord and tenant problems.

In summary, we of 33 Eastmount have been very grateful to rent review as it is and would like to see improvements, certainly not a discontinuance. Without rent review we're faced with upwards of 45 per cent increases, to quote our property manager. Obviously tenants would be unable to remain.

On page 42 of the green paper it's suggested that rents could be increased more than once in a 12-month period. We disagree with this and feel that we are more in favour of an annual rent review scheme whereby the entire building would come under rent review at the same time, for example, at the landlord's fiscal year end. The increases decided at that hearing would take effect at the end of each individual tenancy agreement throughout the year.

We have only touched on a few of the problems tenants are faced with, but these are felt to be the major ones.

**Mr. Acting Chairman:** Thank you. I have questions from Mrs. Campbell initially, Mr. Ashe second, and Mr. Duszta after that.

**Mrs. Campbell:** I take it, then, that in your case what you want to see is an annual review for all of the apartments in the project.

**Mr. A. McMurray:** That is correct.

**Mrs. Campbell:** You want the standard lease form, which is not quite the same thing. On the question of maintenance, you say that there is poor quality work?

**Mr. A. McMurray:** That is correct.

**Mrs. Campbell:** Are you suggesting that the landlord is employing people at low-wage

levels, that that is how you're getting this; or is it a fact that perhaps there is just poor quality work?

**Mr. A. McMurray:** No, I'm suggesting that people that do the work are working to a price. Instead of paying, say \$1,000 to have the things fixed properly, the landlord will spread it over, say three repairs at \$500 each, which does not get the building fixed correctly or the problem fixed correctly. Then when he goes to rent review, he's got these three bills to substantiate what he's asking for, instead of having fixed it right in the first place.

**Mrs. Campbell:** Have you had an opportunity to examine any of the records of this property to know this?

**Mr. A. McMurray:** No. When he comes around he brings everything with him in a little plastic bag, and he doesn't like to let you look at things.

**Mr. Ashe:** Back in the first paragraph of your brief you say: "The tenant association was initiated in this building over a rent strike 10 years ago. Due to rent review, this type of action hasn't been necessary since 1975." Were you in the building ten years ago?

**Mr. A. McMurray:** No, I was not.

**Mr. Ashe:** Do you know the background of why that strike took place? Was it to do with rent? Was it to do with maintenance? Was it to do with tenant problems? Have there been others since? You seemed to imply there were.

**Mr. A. McMurray:** No. When the building was put up, there were a lot of things that were just never finished—like doors in halls, fire doors, the pool; things like that and the tenants were paying for these things.

**Mr. Ashe:** The building is some 11 or 12 years old.

**Mr. A. McMurray:** The tenants were repeatedly asking management to finish things but he would not, he couldn't do it, he would do it next year. It was always "later." That is when the tenants decided, "that's it, fine; we are holding a rent strike." They held up the rents until things were fixed.

**Mr. Ashe:** So there has only, in effect, been the one? You seemed to imply that they occurred regularly until 1975.

**Mr. A. McMurray:** Just the one. He has to be threatened a couple of times but he comes around eventually.

**Mr. Ashe:** How would you tie rent review into this kind of a problem? Really it is lack of maintenance, or in this case, lack of finish-



ing, if you will. If there is a problem with the landlord per se, which is obviously the case here, the landlord or the company involved—

**Mr. A. McMurray:** It has a great deal to do with the rent review program. When you go to a rent review hearing, the rent review officer just takes the major figures, like \$85,000, for Hydro, into the figuring; but we try to break it down to why things aren't done, all these little picky things which are big things to the tenant. The rent review officer usually asks: "Why don't you take it up with your landlord?" That is like talking to the wall. It is always "later, later; next month." These things never get done.

If it were tied in with rent review and the Landlord and Tenant Act, like a tribunal, if things were not done or the quality of the work was not right, you could go to them and say: "This is where it is going to stop." Then they can go to the rent review officer with these figures and these complaints and have it broken down into why we are paying such stupid increases for things that never get fixed, or never get fixed properly.

**Mr. Ashe:** There are really two problems rolled into one there, then.

**Mr. A. McMurray:** Yes. If it were done right, it could be one. It could be solved very simply, but it is not done that way anymore.

**Mr. Duksza:** How many rent reviews have there been in the apartment building? In the first part of the second page you say there has been a number of them. Would every apartment have been involved?

**Mr. A. McMurray:** Oh, yes. There were 84 on the last hearing. Before that there were 65, I believe.

**Mr. Duksza:** So they were not done all at once?

**Mr. A. McMurray:** They were all done in large batches.

**Mr. Duksza:** So, in fact, all of them would have gone through this process?

**Mr. A. McMurray:** At least once.

**Mr. Duksza:** He hasn't been very successful in wearing you down, fortunately.

**Mr. A. McMurray:** No.

**Mr. Epp:** I have two or three questions, Mr. Chairman. First of all, in the third paragraph, page one—

**Mr. Duksza:** Excuse me, one more question. I was just taking a breath.

**Mr. Acting Chairman:** Mr. Epp almost had an answer to his question.

**Mr. Duksza:** All right. I will come back to the question.

**Mr. Epp:** In the third paragraph of page one: "Rent review dropped this down to 11 per cent and the appeal in March of 1978 lowered it again, down to seven per cent." I can only presume that the tenants appealed this, rather than the landlord, for a higher rate?

**Mr. A. McMurray:** Yes, the tenants appealed it.

**Mr. Epp:** You indicated earlier in that paragraph that there was an average increase of \$100, and then later on they got a seven per cent increase. I can only believe, then, that in the first couple of years you had a very substantial increase, because it went in excess of \$100 from \$240 to \$355. You must have had about a 60 per cent increase?

**Mr. A. McMurray:** That is correct.

**Mr. Epp:** During rent review?

**Mr. A. McMurray:** It is my apartment.

**Mr. Epp:** The landlord fixed all these doors and these other things?

**Mr. A. McMurray:** Oh, yes, they have all been fixed. That goes back to when it was originally built, which was about 10 years ago.

**Mrs. Campbell:** You had substantial rent increases before rent review?

**Mr. A. McMurray:** I have all the files up until rent review started for that particular apartment, which is my apartment, and it has gone up that much. In fact, I have four copies of the rent review which were just sent to us last week. They vary from four per cent to 10 per cent on the same rent review.

**Mr. Epp:** One other question: How were these various rates broken down? You say there was a four to 10 per cent increase. How did that vary for the apartments? Did certain units on certain floors get a higher or a lower increase than ones on a different floor?

**Mr. A. McMurray:** No, it doesn't really work that way.

**Mr. Epp:** How do they work?

**Mr. A. McMurray:** I have the four of them here. Mine is penthouse 6 and it comes out to 9.95 per cent, while apartment 2108 comes out to 4.1 per cent.

**Mr. Epp:** How do they differentiate between the increases?

**Mr. A. McMurray:** That is what I would like to know.

**Mr. Makarchuk:** Just on that same point, that is one of the questions I was concerned

about. Is there any rhyme or reason; in other words, the people who got a four per cent increase, were their rents perhaps for a similar apartment, say a two-bedroom apartment, higher than somebody else's two-bedroom apartment? Was that the case?

**Mr. A. McMurray:** That has been the case.

**Mr. Makarchuk:** In other words, then, was there an effort on the part of the rent review so that all two-bedroom apartments would probably be paying the same amount and that is the reason for the difference in increases? [7:45]

**Mr. A. McMurray:** No.

**Mr. Makarchuk:** It wasn't? Nobody seems to know why the hell that happened.

**Mr. A. McMurray:** What has been happening is this: say the unit has been under rent review, then the people decide to move out. The next tenants have no way of knowing what they were paying before, so he just quotes them a price. If they accept that, fine. That becomes the new base rent when they go to rent review, and he gets a percentage of that again.

**Mr. Makarchuk:** Was there any relation between the amount of increase in terms of the rent they were paying for the same size apartment?

**Mr. A. McMurray:** No.

**Mr. Makarchuk:** The other point is on the leaking, et cetera. This perhaps is not something you could answer, but it does bother me because in the municipality where I come from we have a minimum standards bylaw, and the minimum of the minimum says that the walls would be dry. Isn't there a minimum standards bylaw in Toronto where the building inspector can insist that this be repaired and that goes on the taxes if the person does not fix it?

**Mr. A. McMurray:** He has said he's going to repair it. He was up to the apartment last Monday night very informally—wine and cheese—on our association. But in the last rent review, he's got it here, "Capital cost write-off, waterproofing east wall—\$28,500 over four years." On the Monday night when he was at our place he told us straight out that he hasn't awarded the contract to anybody yet. They're still checking into prices. If they're still checking into prices and haven't awarded a contract, why do we have to pay for it under the rent review at the last hearing?

**Mr. Makarchuk:** That's what puzzled me. Isn't there somebody perhaps from Toronto who could answer me? Isn't there a minimum standards building bylaw?

**Mrs. Campbell:** There is a housing standards code. You have a minimum standard, but we increased it.

**Mr. Makarchuk:** But you have to admit that a housing standards bylaw does not allow for wet walls if flooded.

**Mrs. Campbell:** I can't recall now what our standards said, but I'm certain you're right.

**Mr. Makarchuk:** What I can't understand in this is why if there is a complaint laid with the building department he doesn't have to fix it. Then if he doesn't pay for it himself, the city can fix it and charge it to his taxes.

**Mr. A. McMurray:** If that's within the limits; it sounds like a marvellous idea.

**Mr. Makarchuk:** We do it in other municipalities.

**Mr. A. McMurray:** We'll have to get after the city tomorrow.

**Mr. Duksza:** The question I had relates to your statement that the property manager has said that upwards of 45 per cent increases will occur in rent if the rent review program is discontinued.

**Mr. A. McMurray:** That's true, that's what he's told us.

**Mr. Duksza:** You are the first one who's mentioned it. Of course we all know that this would happen.

**Mr. A. McMurray:** Oh, yes.

**Mr. Duksza:** But this one actually dared to say it; so we must beware of all landlords who intend to do this if we abolish rent review legislation.

**Mr. Samis:** I have one question. You seem to have a particularly avaricious landlord. Can you just give us some description of how rent review has affected general relationships between the landlord and the tenants, especially in view of his repeated increases and repeated failures to achieve what he wanted?

**Mr. Duksza:** This is not an ideal landlord. You remember 10 years ago—

**Mr. Samis:** Right; I called him avaricious, not ideal.

**Mr. A. McMurray:** It seems to work now. The people are just getting a little bit sick and tired of putting up with all these rent increases, especially when there's no consistency to them.

**Mr. Samis:** Do you find any change—I assume this is a corporate landlord?

**Mr. A. McMurray:** Yes. The tenants are just getting—bluntly, they're getting bloody sick of it.

**Mr. Samis:** But I'm interested in the landlord's attitudes. Have you detected any change



whatsoever, any sense of compliance with the spirit of rent review? Or is the situation one whereby he's using every opportunity trying to evade or get what he wants, using any excuse within the context of rent review?

**Mr. A. McMurray:** That's been our finding, that he seems to come up with whatever he wants to come up with. One point in particular was two hearings ago. He wanted to charge us \$5,000 for snow removal, and the people in the building—the president and the federation—got hold of the person who did the snow removal. That snow removal was only \$90, which he hadn't been billed for. But it's up to the federation or the tenants' association to go after these things. They shouldn't have to.

**Mr. Samis:** So I would assume, then, that it's very deceptive.

**Mr. A. McMurray:** Yes, creative book-keeping.

**Mr. Samis:** So it's fair to say that your particular landlord operates on the assumption that rent review isn't there, and if it is he'll do everything possible to get around it?

**Mr. A. McMurray:** If it is there he'll get around it somehow, yes.

**Mr. Samis:** Could I ask if you could identify this poor suffering landlord for us?

**Mr. A. McMurray:** Yes. F. R. Speich, 55 Charles Street.

**Mr. Samis:** And do you know if this is the only particular project he has?

**Mr. A. McMurray:** No, I believe he has 11.

**Mr. Samis:** Any idea of their size compared to this one? I gather this is a fairly major project.

**Mr. A. McMurray:** Fairly. I don't know the other sizes. I know he has 55 Charles Street. I don't know how big it is. I haven't been by there in a long time.

**Mr. Samis:** I know he has one up on Lawrence—a major project.

**Mr. Acting Chairman:** Mr. Kennedy and then Mr. Philip.

**Mr. Kennedy:** I have a couple of questions. First, at the top of page one you mention that well over half of your tenants are members of the association which has one of the largest memberships in the city; and if it's a 211 suite building, I presume it would be something over 100 members so that makes it one of the largest memberships in the one building.

**Mr. A. McMurray:** That is correct.

**Mr. Kennedy:** I see. The second paragraph: Could you clarify your proposal of a

standard form lease? Previously tenants in the buildings were charged an escalation of well over \$100 in most cases which was upheld by rent review. Could you clarify how a standard form lease might help? I presume this is what your reference is. Could you clarify how the standard form lease might help me? \*

**Mr. A. McMurray:** Standard form lease to me is something that every individual can read. Have you ever read the back of a normal Dye & Durham lease? They're totally ridiculous in the language that's used.

**Mr. Kennedy:** Yes.

**Mr. A. McMurray:** It's not for the average person to sit down and read and understand. Then he slips in these things like escalation clauses which nobody understands, but they end up having to pay a little over \$100 or so over the year. That gets put into their rent. Then that becomes their base rent and the landlord files for his percentage on that base rent, after escalation.

**Mr. Kennedy:** Are you saying that this goes by rent review at the time of rent review hearing? In other words, a simplified form of lease would help not only tenants but the rent review.

**Mr. A. McMurray:** It would help tenants to understand what they're getting into. I was told he charged the escalation because rent review didn't give him enough. He put forth this escalation clause, which I really don't understand, and then it was taken to rent review and upheld by rent review as part of the base rent.

**Mr. Kennedy:** True, but I'm wondering how the law provides standard form leases which you suggest, would assist in this.

**Mr. A. McMurray:** I'm suggesting a simple standard lease that everybody can read. Not all the legal technicalities that are on those normal leases. I've read mine over a half a dozen times and I still don't understand half of it.

**Mr. Kennedy:** Well, evidently it went by rent review—that's what you imply here. You're indicating, because of the standard form of lease, it assisted the landlord in making his case before rent review—to his benefit.

**Mr. A. McMurray:** Yes. The standard form lease as it exists now, not a small print lease which hardly anybody could read.

**Mr. Kennedy:** Okay.

**Mr. Philip:** I wonder if I can just get a couple of points clarified. Your association came into being with a crisis, namely, they had to have a rent strike, in your opinion,



in order to get any action 10 years ago. In that interval between the rent strike, or the crisis—after which you got things repaired, at least up to minimum standards—and rent review, was there an ongoing association?

Mr. A. McMurray: Not to my knowledge.

Mr. Philip: I see. It has been in for about five years?

Mr. A. McMurray: Yes.

Mr. Philip: On the second page, at the top, you complain about the whole problem of constantly going before the rent review board with different rent increases that the landlord is asking for. What does this do to the morale of that association? The association was founded on a crisis and now, in a sense, you've got crisis after crisis with constant hearings. Do you feel that if you just had one hearing a year, with perhaps even a rationalized rent throughout the building that it would add a lot to the morale of building tenants' organization; you wouldn't have a constant crisis.

Mr. A. McMurray: That's true. If you get three or four different hearings a year, all these people have to take time off and then the landlord gets, say, 10 to 12 per cent. Then it has to go to appeal; there's another day lost. A lot of these people don't get paid for the days they have to take off; it's just lost money. So that, in effect, ends up costing them more.

Mr. Philip: Without passing judgement on the present executive, do you think that you would have an easier job of recruiting top quality people to run for the executive of your tenants' association if you didn't have this constant pressure on their time, if you had at least one rent review per year rather than the constant series of rent reviews so that you could tell them that this is a block of time that they will devote to it?

Mr. A. McMurray: Right, because they would have time to prepare for it. These things come up. I may not be on the rent review but some others will be. Then they come up and pound on the door crying about all the money they are being charged.

Mr. Philip: One last question. Your first paragraph in which you say: "The tenants' association was initiated in this building over a rent strike 10 years ago. Due to rent review, this type of action hasn't been necessary." Do I take it that you are saying, in no uncertain terms, that as a result of rent review the more drastic action of strike has not been necessary?

Mr. A. McMurray: That's correct.

Mr. Philip: And that this is a way of dealing with a landlord such as—I don't know of any adjective that wouldn't get me into trouble—

Mr. A. McMurray: I don't either.

Mr. Philip: But the present one that you appear to be dealing with?

Mr. A. McMurray: Right.

Mr. Acting Chairman: I would like to go to Mr. McCaffrey and then to Mrs. Campbell. We are nearing the turn of the hour when the 800 Richmond Street West Tenants' Association comes on. Perhaps Mr. Hodgson will get a short question in after Mrs. Campbell and then we'll wrap it up at that point, if we may.

Mr. McCaffrey: Mr. Chairman, thank you, I will be very brief. Mr. McMurray you mentioned that you live in a penthouse.

Mr. A. McMurray: That is true.

Mr. McCaffrey: Am I correct that the rent you refer to—the monthly rent in your brief is your own personal rent, that it's now \$355 a month?

Mr. A. McMurray: That is correct.

Mr. McCaffrey: The reason I ask is that this committee will, as we proceed along here up to June 1, in all likelihood be considering whether the rent control program, as we know it, should be removed from so-called luxury apartments; that is the case in some other jurisdictions.

Some people would say that \$350, for example, might be a reasonable level, above which you are in a luxury area, as you would then be if that were the guideline. I am curious to know how you think that would affect you, and what is your general reaction to such a possible discussion?

Mr. A. McMurray: I am very much against dropping rent review because if something doesn't happen with these stupid increases we have been getting, where it is inconsistent from four per cent to 10 per cent, I'll move; where to I don't know.

Mr. McCaffrey: Do you think there is a monthly rent above which it would be reasonable to exclude the rent control program? \$1,500 a month say, or \$2,000 a month?

Mrs. Campbell: I would reply to the contrary here.

Mr. A. McMurray: You were talking about luxury. Let me tell you that a penthouse is no different from any other two-bedroom, except that it just happens to be on the top floor. But it is no different. It is in a lot of cases worse, because I have a lot more cracks

up there than some people have on the 17th floor.

**Mrs. Campbell:** Yes, I just want to pursue this one point. You are supporting the Metro tenants' associations in their desire to have one tribunal rather than the type of rent review we have now.

[8:00]

**Mr. A. McMurray:** No, I am talking of the rent review program, not necessarily as it is now but a little modified. I am talking of not necessarily a tribunal, but someplace where you can go if you have a problem with the building. If you have problems with your parking you would go to the parking control, or to the building inspectors. I am talking of going to one place where you can say: "These are the complaints. You talk to the landlord. You see if you can get it solved."

**Mrs. Campbell:** That I understand. It is just the one point. You are one of those who seemed to have had rather a cluster of people at a given hearing.

**Mr. A. McMurray:** That is correct.

**Mrs. Campbell:** I wonder if you have any help for us in trying to arrive, whatever the tribunal is, at a reasonable kind of review which doesn't permit these increases varying between four and 10 per cent in the same building? That is what I think we have to come to grips with if we are looking at a tribunal. The idea of it is trying to see that the increases which are granted are consistent. Have you addressed yourself in any way to how we can achieve that by any kind of a tribunal? The way it is now it isn't consistent in your building.

**Mr. A. McMurray:** No, it is definitely not consistent. I have four of them with me. The figures are all the same except for the two bottom lines. Rent increase allowed, one figure, then a percentage. The same figures, increase allowed, different percentage. That is what I don't understand.

**Mrs. Campbell:** It is crazy.

**Mr. Acting Chairman:** Mr. Hodgson, do you have a very quick question? We are past 8 o'clock and there is another delegation waiting.

**Mr. Hodgson:** When was this apartment building opened up for tenants, prior to the strike? When it was finished for occupancy?

**Mr. A. McMurray:** It was built about 10 years ago, but it was not finished properly. That is why they initiated the rent strike.

**Mr. Hodgson:** That is when the tenants association was formed and came into being?

**Mr. A. McMurray:** Yes for that particular purpose, for the rent strike. After they got the building up to snuff it was dropped, up until the problem with rent review when they came up with such weird figures and the inconsistencies of rent review.

**Mr. Hodgson:** How long have you been a tenant there?

**Mr. A. McMurray:** Two years.

**Mr. Duksza:** One further question: You have left us with an impression that this was a rather well-off apartment. I wonder if you can tell us whether this is true or whether this is full of quite ordinary people with ordinary incomes?

**Mrs. Campbell:** Nobody is ordinary.

**Mr. A. McMurray:** It is full of quite ordinary people with ordinary average incomes.

**Mr. Duksza:** That is really what I thought it was, but it sounded like penthouses galore and luxury apartments.

**Mr. A. McMurray:** No, definitely not.

**Mr. Duksza:** I didn't think so.

**Mr. Acting Chairman:** Thank you very much, Mr. McMurray, for your presentation. It has been very useful. A very large number of questions have been asked and I think a lot of information has been gleaned that was very helpful, and your brief will be most useful to us. Thank you for coming.

We would now like to turn to the 8 o'clock delegation, which is 800 Richmond Street Tenants' Association. We have Mr. Goetz-Gaden here on this one, along with Heather McMurray. Who has carriage of this matter? I wonder if you would identify your organization? Do you have a brief with you?

**Ms. H. McMurray:** We don't have a type-written brief. I am Heather McMurray, president of the 800 Richmond Street West Tenants' Association. We have organized a large apartment complex. I have with me a pamphlet that we did up that has our major points very briefly on the inside. We gave these out to the tenants after we received their suggestions and this is what we came up with. We have copies of this for you if you wish.

**Mr. Acting Chairman:** Perhaps the clerk will arrange to get enough copies for each of the members of the committee. Perhaps you would be good enough to highlight some of the matters for us and then there might be the odd question or two from members.

**Ms. H. McMurray:** I won't be speaking point by point the way it is in here but will be covering all the points.



The person with me is John Riddell. He is our secretary and we're going to be dividing our brief in half. I'll do the first half and John is going to be doing the second half.

**Mr. Acting Chairman:** That sounds like a very copious brief. We have scheduled, at 8:15, the Landlords' Self-Help Centre, Mrs. Wisman. Is that organization here?

**Mrs. Wisman:** Yes.

**Mr. Acting Chairman:** We hope to have them on at about 8:15 so would you go ahead now Ms. McMurray?

**Ms. H. McMurray:** Okay:

The 800 Richmond Street West Tenants' Organization first began holding its meetings in the summer of 1975. Originally, our aim was to improve the building maintenance and to develop a better on-site recreation facility, especially for our children. We hoped that the tenants' organization would involve more tenants in caring for their homes on a co-operative basis. In addition, we believed we would accomplish more to improve the quality of our lives by dealing with our landlord as a group rather than as individuals.

By putting out leaflets, canvassing door-to-door, through meetings and conversations over the telephone, we are in regular contact with the majority of the people in the building, many of whom work irregular shift hours and cannot be with us tonight. They are with us in spirit, though. They are the immigrants, the pensioners, the working people and the people on fixed incomes. These are the people who live in our building.

While we still adhere to our original goal of improving the quality of life where we live, we have had to face great difficulties in achieving our end because our stone-age landlord believes in absolute right to govern no matter what the cost to the people who live in his building. The complex at 800 Richmond Street contains approximately 250 units and is owned by Mounthriar Building Corporation. The building, which opened in 1973, was mortgaged by Central Mortgage and Housing, hereinafter noted as CMHC. It was a limited-dividend housing program, a low-rental housing project under the National Housing Act. A limited-dividend scheme is not a rent-geared-to-income program. It is a scheme where private developers receive lower than market interest rates on a mortgage obtained from CMHC, which covers 90 to 100 per cent of the building cost. CMHC is supposed to authorize rents charged on a yearly basis.

Unfortunately this program, which was hoped to provide housing for moderate and low-income people has been a monumental failure. It has been dropped by CMHC largely because of its ineptitude in administering it. We hope the knowledge of our experience in living in a low-rental housing project owned by a private developer will help you in your deliberations.

Two years ago we petitioned the Ontario government to maintain rent review for tenants in privately-owned limited-dividend buildings. This year we are petitioning you to maintain rent review for all tenants across Ontario. If we who live in what is supposed to be a low-rental housing project under CMHC control have had to face hardships of high rents, cockroaches, mice, cold winters, poor maintenance, lack of repairs and landlord harassment, we can only imagine the rents and the standards of service faced by tenants branching into the private market.

Rent review has afforded these tenants some ability to deal with inadequate housing accommodation, and some dignity in doing so. It is this dignity that we cannot afford to lose. Rent review must be maintained and strengthened. Tenants in limited-dividend buildings must remain covered by the Ontario rent review controls because rent levels established by CMHC are not enforceable. They are in essence recommendations, not rent controls.

Early in 1976 we discovered through telephone conversations and correspondence with CMHC that our landlord was charging well above the CMHC levels. In 1974 the rent that was supposed to be charged on a bachelor was \$92. The actual rent collected was \$100. This is \$96 a year the tenant was overcharged. On a one-bedroom apartment, the approved level was \$140; the actual rent collected was \$149. This is \$108 a year overcharged. A two-bedroom apartment was renting for \$179; the approved rent was \$160. This is \$228 a year the landlord collected above the approved level. In 1975 they were even further apart. A bachelor apartment rented for \$144; the approved level was only \$121. It was \$188 a year the tenant was overcharged. In a one-bedroom apartment the rent being taken in was \$183; the rent which was approved was \$169. That is \$189 a year overcharged. In a two-bedroom, \$189 was the approved level; \$205 was the rent collected. That is \$157 a year overcharged.

This may not sound like much, but to a low-income tenant on a fixed income, that is a lot of money and we feel it is better in our pocket than in that of the landlord.



Despite repeated efforts on our part, CMHC refused to enforce the rents which it had approved. On April 2, 1976, CMHC told us: "Increases are authorized by CMHC in accordance with the terms of the operating agreement and the financial evidence supplied"—that is supplied by the landlord—"the corporation is not in a position to demand that the borrowers make rebates, neither is the corporation in a position to adjudicate allegations of overpayment.

In Thunder Bay the previous year, however, CMHC had forced a landlord to rebate rents in a similar situation. Had they really wanted to enforce the terms of their contract with their landlord, they could have threatened to foreclose on breach of contract. Instead they chose to refuse to accept the responsibility in respect to low-income tenants.

We have attempted to enforce CMHC rent ourselves by deducting the amount overpaid from previous years and by paying the currently applicable CMHC rent levels. CMHC refused to support our efforts. In fact, on July 16 CMHC sent us a letter stating they were retroactively approving the increases as implemented, thus indicating, contrary to their previous letters that our allegations of overpayment had been fixed, that they were now retroactively approving those rents as implemented, without even consulting us. In the meantime, the landlord began eviction proceedings against us. We paid the money in dispute into court to show our good faith.

Later, on September 27, 1976, we received a letter which indicated CMHC had approved two increases per year. The first approval per year was the amount originally communicated to us by CMHC in April, while the second amount was the amount which the landlord had actually charged, which we considered to be the overcharge.

CMHC claimed they had new information to allow these second approvals but refused to explain how new information could be added to a financially audited statement from three years back.

We feel we fully understand the new figures given to us exactly four days prior to our court hearing. It represents just another coverup, another discouragement to the tenants trying to enforce their rights.

At the present time we are sorry to say that the courts ruled for our landlord, finding that a tenant in our situation has no standing under the National Housing Act to enforce the terms of CMHC's contract with a private landlord.

If a landlord can legally compel a tenant to pay more than CMHC approved rents by threatening eviction, then these CMHC rents are not controls, they are just suggestions.

They are only recommendation and they are weak recommendations at that.

We have accumulated \$700 in court costs and now our landlord's lawyer says his bill for attending our appeal will be \$3,500. Neither CMHC nor the courts have provided us with any justice. The price we have had to pay for trying to enforce our rights is high and can never be measured. We believe CMHC and the federal government have condoned highway robbery.

[8:15]

We think governments should be involved in the business of providing good accommodation for people like ourselves who cannot afford housing on the private market, but who do not fit into the category of rent-geared-to-income housing.

Subsidizing landlords does not really help us, if governments are not prepared to enforce their agreements. We believe that our case illustrates that subsidizing landlords ensures the rip-off of taxpayers' money and life in close-to-slum conditions for low-income people.

The Ontario government, however, has instituted a program of controls. Tenants can enforce their rights by refusing to pay illegally-established rent increases. The court will reject eviction orders.

**Mr. Acting Chairman:** Thank you, Ms. McMurray. You have presented your points very well. All the comments have been taken down on a recording device and will be prepared in the Hansard record for members to peruse at a later date in some more thorough fashion.

I would hope that perhaps we can limit the questions as modestly as we can. We do have the benefit of a very copious brief here and that will be very useful.

**Mr. Makarchuk:** I have a similar situation in my community in Brantford. We went after our federal member to go after CMHC to enforce the contract and in that case the contract was enforced. Did you go after your federal member?

**Ms. H. McMurray:** Yes, we went after our federal member and we also subpoenaed the minister at that time, Barney Danson, to attend our court hearing. Out of that came nothing.

**Mr. Makarchuk:** Who is your federal member?

**Mr. Acting Chairman:** Excuse me. Order, please. There is a bit of a din in the background and it makes it very difficult for everybody to hear. Perhaps some of you would be good enough to just refrain or

comment pending these deliberations. Thank you.

**Mr. Makarchuk:** Who is your federal member? What party is your federal member?

**Ms. H. McMurray:** Our federal member is a Liberal and he is Peter Stollery. He has been active on our behalf, but nothing has come of it that has actually helped us.

**Mr. Makarchuk:** Our federal member is an NDPer. We got ours rolled back.

**Mr. Acting Chairman:** Thank you very much, Ms. McMurray.

**Ms. H. McMurray:** We do have a short second part and I would like to have it presented as well, if that is possible.

**Mr. Acting Chairman:** Is it in a prepared fashion? I am wondering if we could make it part of the record and it will become available for the members?

**Ms. H. McMurray:** Yes, it is.

**Mr. Duksza:** Is it short?

**Mr. J. Riddell (Private witness):** I think you offered us 15 minutes. We would like to take it.

**Mr. Acting Chairman:** You have. Please go ahead and extend beyond the 15 minutes.

**Mr. J. Riddell:** Ms. McMurray described one side of the problem. Given the shortage of time I will be very brief in describing the other.

What we are worried about is being left to the mercy of CMHC. We want to remain covered by the Ontario rent review plan. We are worried that the plan will either be dropped or that we will be excluded from it. I just want to mention things in point form.

One thing that you must remember is Ontario rent review hearings are free. We just got a bill for \$4,200 thrown at us for trying to use the only recourse open to us under CMHC, that is the courts—\$4,200 in costs to be paid by five low-income tenants.

The second point you should remember is that if you examine the rent increases approved for our building for given apartments by the Ontario rent review board and by CMHC, they differ extremely. For example, for my apartment, which has two bedrooms, in the last two years from Ontario rent review I got increases of eight and 10 per cent, which I thought was a lot. However, over the same two years, the CMHC approved increases twice as great. That is a total of 42 per cent over two years. It doesn't sound like rent control to me. Obviously, completely different criteria are being used. If you are going to throw us to the mercies of CMHC, you must ask CMHC what their criteria are.

And that leads to the third point I want to make. CMHC hearings are secret. Their criteria are secret. We do not know when the hearings are held; we can't find out when they're going to be held; we can't find out when they are being held. We can't get into them; we can't make presentations to them; we can't even find out when they have been held and we can't find out what their results are. They will give me, not by phone but by letter, the conclusions of their hearings for my own apartment only; and then only when I ask by letter. This is, by the way, an apartment building where not everyone has had the advantage of education in English or French. I don't know whether they would reply to a letter in French; I should try.

The third problem is simply that they don't recognize us as a party to their hearings. In the Ontario rent review hearings last year we were able to point out about four or five different points where the landlord, perhaps in good faith, had made serious errors in estimating his costs. We were able to point them out because we lived in the building. We know what he spent; we know what he doesn't spend. CMHC doesn't invite us to their hearings, doesn't ask our opinion, has no independent source of information except the information given to them by the landlord. I think that's the reason the approved increase is twice as great as those approved by the Ontario rent review. If you have only one source of information, the landlord; if you have no independent investigation, no independent facts; you will inevitably, whatever your intentions, swing around to the landlord's point of view. What else can you do when you make your findings? I think that's sustained by the facts.

I also maintain that the result of CMHC rent review has been to raise the rent levels in our buildings to levels which are as high or higher than the market rates for our district. For example, I live in a two-bedroom apartment which has about the floor space of a normal one-bedroom apartment and no balcony. It's in an industrial area, in a rather poor, working-class residential part of town. CMHC has approved a rent of \$274 for the coming year. I don't know what you in this room pay for apartments. I'm planning to move; when I move I will be paying between \$170 and \$230 for an apartment of the same size in that area.

That's what comparable market rents mean, and that's been the result of CMHC rent control, and that's what we don't want you to throw us to.

We have some ideas about how the Ontario rent control in our building could be im-



proved. It could be vastly improved. Above all, the rents could be decided for the building as a whole, because what happened last year was that we won a favourable rent decrease for about 10 per cent of the units in the building but we were completely unable to get that extended to the rest of the building because of the power the landlord has to intimidate tenants in various ways and to prevent them from going to rent review. That's our basic problem with the Ontario plan the way it is, but at least the Ontario plan provides some protection and we feel very desperately that this protection at least must be maintained.

I'd finally just like to say what we think should be done with the buildings, because it's more than just a question of rent review. The limited-dividend buildings have been paid for by the taxpayers through the federal government. We think they should be owned by the taxpayers and if the federal government is not willing to do it, we think the provincial government should consider doing it.

Secondly, the limited-dividend buildings are buildings at sea. They are buildings that are now now being managed or cared for by anyone and the city of Toronto's inspection records would show that; the number of work orders would show that very clearly. They're not being cared for by the federal government. They're not being cared for by the landlord. Our suggestion would be a little bit radical, that perhaps the tenants should have a chance to care for these buildings for a while and see if we can do any better. That's all.

**Mr. Acting Chairman:** Thank you very much. You've both made very excellent presentations. They have been recorded and will be available to us. Thank you for coming and making your presentations.

**Mr. Epp:** Perhaps it might be advantageous to have somebody from CMHC here at some future date.

**Mr. Acting Chairman:** Thank you. That's a valid point.

**Mrs. Scrivener:** Mr. Chairman, just before the last person who presented the last brief departs could he tell us the address of his residence at the moment—not because we want to know where you live, but where the building is.

**Mr. J. Riddell:** My apartment is 801, it's 800 Richmond Street West. The name of the development is Richmond Square.

**Mr. Acting Chairman:** Thank you both. Could we move on now—

**Mrs. Campbell:** Mr. Chairman, if we are going to have CMHC here it seems to me that these people, or any other limited dividend group, should be advised when they're going to be here.

**Mr. Acting Chairman:** I wonder then if I could have the clerk make a recording of the names so that, if CMHC is invited, there is representation from this group.

**Mrs. H. McMurray:** We would love to have CMHC accountable to the public. Right now they are accountable to nobody but themselves. I think a public hearing would be in the best interests of all LD tenants.

**Mr. Acting Chairman:** Landlord's Self Help Centre; Mrs. Wisman. I apologize that we are a bit behind time.

**Mrs. Wisman:** That is all right. We are small landlords and have only a little bit to say.

**Mr. Acting Chairman:** Ladies and gentlemen, it is going to be difficult to find seats, by the looks of it, as more and more delegations come in.

**Interjection:** We need more night sessions; that's what we need.

**Mr. Acting Chairman:** I think that's probably the case. There are seats that are scattered around the edges and perhaps you can find a spot here. We welcome you to stay on through the evening. However, if any of you do choose to leave, I am sure there are others waiting to pop into your chairs.

**Mrs. Wisman,** would you identify yourself and your organization, please, for us?

**Mrs. Wisman:** Mr. Chairman and members of the committee I am Mrs. Wisman and I am speaking on behalf of Landlord's Self Help Centres, formerly Land'aid, which was set up originally for the purpose of assisting small landlords of owner-occupied dwellings. I am talking about those places where the landlord lives on the main floor, perhaps, and rents one room, one room and kitchen, or a flat or two.

Our clients are primarily of ethnic background, very often pensioners, or people earning meagre wages. These people are completely confused by all the bureaucracy which since 1975 has involved the renting of even a single little room. They cannot follow the legal procedures—all this form-filling and 90 days' notice. These people don't even know they have to put their signature on the line.

Our experience has proven that the Landlord and Tenant Act is the major concern to these landlords. Rent control, however, is still an important issue. Ever since tenants



have had the choice of the most luxurious apartments with all the added features—swimming pools, tennis courts, saunas—and often now being subsidized, it has become more and more difficult to rent older homes.

Owners of these homes are now forced to accept much lower rents than the actual costs permit, trying desperately to meet their payments, which spiral constantly.

It has to be pointed out that in those cases where amicable relationships between landlords and tenants have developed over the years, not seldom the landlord would rather forgo the rent increases he is entitled to. There are nice landlords around too.

When tenants of long-standing relationships leave and new tenants move in, a hardship is created to the effect that this landlord now is not allowed to charge the same amount of rent from these new tenants that the next-door neighbour may receive for the same type of premises. That neighbour is most likely a much sharper businessman who, in the meantime, took advantage of all the permitted increases.

[8:30]

Again, there is still another severe punishment in store for a small landlord if he should take pity on needy tenants. If he rents to them at a lower rate than the original one, then rent review will deny him an increase based on the former rate and use for calculation the newly established lower rent.

Another absurdity, we think, of the rent review program seems to demonstrate itself in cases where someone bought a house and is faced with the problem of finding the former tenants, whom he cannot locate, in order to establish the former rents paid. Furthermore, the application of the percentage costs table has no meaning since it always favours the sharp guys and ignores the plight of the soft-hearted landlord who loses out again because he didn't raise the rent high enough previously. If he had charged much more for the former tenants then his percentage would be higher. Those people who didn't rush in so sharply with increases now get lower percentage increases.

In addition, it is economically not feasible for small landlords to hire outside help for every little job, and he has no recourse to recover his various costs, in the case of janitor services, repair costs, paint jobs and the usual maintenance duties pertaining to his own labour, as well as a fair addition for his increased cost of living, which everyone, even tenants, seems to be getting by the sophisticated accounting methods of the big

rental industry which are geared to offset their costs and losses.

It became quite evident that when rent review legislation was introduced that it was designed to take care of the unscrupulous practices of some of the housing giants, while, unfortunately, at the same time the little honest guy was squeezed right into it. For example, one cannot imagine legislation being passed for the big food business industry which would include the little apple cart vendor also. We feel this is the same with the small landlord. The involvement with our clients and other landlords makes us believe that it's more than reasonable to exempt small landlords, certainly those of owner-occupied dwellings, from rent review legislation. They never will be able to handle things business-like and, as indicated before, their rents are less than average anyway.

May we say that tenants seem to be getting all the consideration in the rental market, they are even free to look into our books but we cannot look into theirs. Who is protecting the small landlords? If one would look more into that, one could see how some of them suffer. I have a notice here: "Who is responsible for the incredible increase in costs of homes, condominiums and co-op housing units? Can landlords be blamed for those staggering costs?"

We have a clipping from September 1977 regarding condominium complaints. It says: "Many people who call the centre say they moved into condominiums thinking that they had found a cheap housing alternative and then discovered they face liabilities beyond their means." Now, if there is no landlord involved in a condominium which has these terrible costs, they should really consider that a landlord might have some costs too, and while the home owner here wouldn't leave his city home, even with a great tax increase, these people estimate they will not be able to afford the staggering costs. Some rent out a little room and then they are hit with some of the bad tenants.

I am not talking about the good tenants. There are so many lovely tenants who have made good relationships with so many nice little landlords. They cut the grass for the landlord. When the tenants are sick the landlord brought them food and looked after them. I had a girl working with me just a few months ago who said, "I have to come later. I have to rush my landlady to the hospital. She is having a baby." I just wanted to say this is the relationship one has very often—there are bad landlords too—with small landlords.

These landlords cannot even follow what is going on. Whatever is changed—a tribunal or whatever—why couldn't these people be exempted?

I have more clippings here. One thought of retirement insurance; one has a home and could rent a little bit so one doesn't have to fall on welfare.

I have a person who is going bankrupt because she rented and didn't get paid. They gave her a rubber cheque and she had nothing.

I don't know what this guy is here. Mr. Pilkey—I never met him—from the Ontario Federation of Labour: "Many Metro apartments are owned by Europeans who have no sense of community. They are here to get the biggest dollar they can get and spend the least in terms of maintenance." I am not sure where he sucked this out of his finger and how he could say those things in general.

Mr. Duksza: I don't think he meant the Canadians of European origin. He meant Europeans who own the things but live in Europe.

Mrs. Wisman: Oh, I didn't know.

Mr. Kennedy: You are clairvoyant, doc.

Interjections.

Mr. Samis: He is a psychiatrist.

Mr. Acting Chairman: Do you know Mr. Pilkey, Mr. Duksza?

Mr. Duksza: It is a fact that most of our big corporations are owned by Europeans or Americans.

Mr. Makarchuk: In the context of the statement, that was referring to foreign money coming from Switzerland, Germany and so on.

Interjections.

Mr. Acting Chairman: Mrs. Wisman, thank you very much for making your presentation. We appreciate your comments this evening.

I would like to move on now to the Mississauga Tenant Action Centre and Leslie Robinson.

Mrs. Campbell: Don't go away mad, now.

Ms. Larocque: I am Denise Larocque. Both Leslie Robinson and I will be making this presentation.

We apologize for not being able to submit this to you at an earlier time, but as we get into it you will realize that you have heard the things we are about to say numerous times before at these hearings.

Both Leslie and I are tenants in Mississauga and we are both on staff at the tenant action centre. The tenant action centre is a community legal clinic set up to assist tenants in Mississauga. The clinic also serves tenants in the outlying areas of Brampton, Oakville

and Caledon as there are presently no comparable services in those areas.

The tenant population of Mississauga is estimated to be almost 100,000, and since its inception in December 1976 approximately 4,000 cases have been handled by the two staff members of the tenant action centre. In addition to individual case work, the centre acts as a legal resource to tenant groups and associations.

As an initial premise, we would like to state that although the shortage of rental supply is a serious problem affecting tenants, we consider a larger problem to be the high cost of housing. Low- and moderate-income people cannot afford to pay rents that not only cover operating costs, but pay for refinancing and buy a landlord's equity in a building.

An increasing number of calls received by us are from tenants who are being evicted for non-payment of rent. We can provide legal advice, but this does little to alleviate the problem. Landlords complain about tenants who move from building to building, often owing several months' rent. Of course the landlords in this position are not to blame, but for many tenants such a lifestyle is not one of choice but one of necessity.

The obvious course for this government to follow would be to direct itself into the area of providing rental housing and investing in and encouraging non-profit municipal and co-operative housing projects. Not only do co-operative projects keep costs low, but they give tenants the responsibility of managing their own homes, and place them more in control of their own lives.

The suggestions and proposals we would like to make regarding rent review must be accompanied by a comprehensive program of government-supplied housing. Certainly if we are to call ourselves a civilized society with rights and freedoms, one of those rights must be the right to shelter and a home, and one of those freedoms must be the freedom to choose that home.

Ms. Robinson: First we will point out the weaknesses that we see in the present system.

It is our position that the present system for providing affordable rental housing to tenants has consistently failed to do so. In our estimation, although the Residential Premises Rent Review Act has provided tenants with controlled rents, it has not provided them with decent affordable housing, nor has it encouraged the development of more rental housing. The responsibility of providing such housing is the government's. Housing is not only a social necessity, it is a right. Until such time as tenants can be



assured of living in affordable premises that are for and in their best interests, the only legislation to replace the present must be such that strictly enforces their security of tenure and protects their rights as tenants.

The weaknesses of the present rent review system are numerous. We have attempted to specify those we feel are most serious. It is not unusual for many landlords to evade rent controls by unlawfully raising rents when a tenant vacates. Nor is it usual for a tenant to be aware of what rent the previous tenant paid. Because a landlord is not required to take all units to rent review at the same time, rent review is used as a form of intimidation, that is by singling out particular tenants. These tenants are frequently those who have attempted to enforce their rights.

Section 5(2) of the rent review Act states that a landlord may receive a rent increase only once every 12 months. In the past, however, some tenants have received several increases in one year, many of them during the term of a lease. The rent review office in Mississauga has refused to deal with those unlawful increases which are less than the guideline, stating that they have no jurisdiction.

Presently, the notice requirements for rent increases under the Landlord and Tenant Act is 90 days. The rent review Act requires 60 days notice of application for an increase greater than the guideline. This can be very confusing to tenants and we imagine it is cumbersome to landlords. It is our premise that there should be one notice. A form notice should incorporate proposed rent increases both above and below the guideline and indicate the landlord's intentions regarding application for rent review.

Tenants are discouraged from making applications for rent review. Most tenants are unaware that they have the right to apply for a hearing regarding increases less than the guideline. Those who are aware of this right are discouraged from doing so because they are taking the chance of getting a higher increase than the guideline. Tenants faced with making the decision of whether they apply for rent review hearing have little to base their decision on as they cannot see the landlord's financial statement until after the application has been made.

In Mississauga, to our knowledge, hearings have only been held and the rent review office is only open for purposes of information and access during regular working hours. This makes the office inaccessible to working people. In addition, the rent review office is inaccessible to handicapped persons.

Tenants express to us their confusion and bewilderment at the entire rent review process. They have little knowledge of what the rent review officer bases his or her decision on, and seldom understand the distinction between landlord and tenant issues and rent review issues. Although the present legislation in theory has some provision for professional, technical or other assistance, this practice has not occurred to our knowledge.

Even though assistance is unavailable to tenants unless they pay for the service or use the services of a community legal clinic, the landlord's costs of the hearing are allowed to justify rent increase and such costs end up being paid for by the tenants. A greater allotment of government funds should be made to the provision of legal services to tenants.

Although tenants retain a right to appeal by appearing at the hearing or having someone appear by proxy, this does little to protect their interests. Tenants should be able to register with the rent review office before the hearing the fact of their inability to attend, thereby retaining the right to appeal. [8:45]

Because landlords' cost-revenue statements are often only available a few days before the hearing, this information is usually inaccessible to the tenant until the time of the hearing. As is done in the case of appeal notices, cost-revenue statements should be included in notices of hearing. This would enable tenants to better prepare for the hearing and make their opinions known at the time. We feel that the cost of providing statements would be offset by a decrease of appeals made by tenants who had insufficient time to prepare for the hearing.

Tenants are poorly protected by a rent review officer who claims to protect their interests but does little to force the landlord to substantiate cost increases by bills, receipts and independently audited statements. We know of one instance where a landlord submitted tapes from an adding machine, which were accepted as justification of his costs. It is advantageous that most rent review officers are trained in the practices of accounting, but it is unfortunate that most have little knowledge of natural justice or other principles of law.

Tenants do not have access to the policies and procedures in determining a rent increase by way of either the Act or its regulations. Failure to include such policies and procedures in the legislation or regulations removes from the scrutiny of the public and the Legislature important aspects of the rent



review process, a scrutiny which could evaluate the policy in the first place and then prevent its arbitrary alteration once in existence.

Although in principle we favour rent levels which reflect actual costs of the landlord, we do recognize that for the sake of expediency a guideline is necessary. The guideline also protects tenants in that it gives some extent of certainty and predictability. If there is to be a guideline, it is essential that it reflects unavoidable cost increases, such as hydro, taxes, insurance, fuel, et cetera. It should be adjusted yearly as the prospective increases are known.

The largest increases we have seen are apparent when a building has been refinanced or when interest rates rise due to refinancing. This usually enables the landlord to show a financial loss. Tenants should not be responsible for costs of financing, other than interests on initial mortgages and interest on financing that has been necessary to maintain the premises and has been used solely for that purpose. It is not the role of the tenants to provide equity in the landlord's investment through their rental payments. It is the landlord who profits by gaining equity in the building.

The present cost passthrough system enables the landlord to project increased costs for the next year. Because a landlord may not return to rent review the next year, there is no assurance that many of the projected costs have actually been realized. One solution to this and other weaknesses is to require one annual hearing to cover all units in the building. At that hearing, projected as opposed to actual increased costs should only be allowed for taxes, utilities, hydro and oil when there has been an announced increased charge. Projected increased maintenance costs shall only be allowed in the amount of the guideline. Adjustments should be made to reflect amounts projected but not spent in the next increase.

A process to standardize rent levels on similar units in the same building should be initiated as there are presently gross inequities, as I am sure you have heard. The policy options paper suggests that as a method of gradual decontrols certain categories of housing should be exempted from the rent review process. As a general method of decontrol, we feel the results could be disastrous. Most of the categories suggested, with the exception of luxury accommodation, traditionally house tenants of low to middle-incomes. These tenants should not bear the brunt of what would be no more than experimental decontrols.

The classes which would be exempted would be likely to encounter drastic rent increases. Present tenants would find themselves forced to move. Housing classes, such as rooming houses and small buildings, would no longer be viable choices of accommodation for low-income tenants as there would be no guaranteed protection.

Landlords who imposed such increases would not be likely to encounter difficulties rerenting to a higher income group of tenants, due to the present shortage of housing for all tenants. Another result could be an even greater decrease of investment in those classes of housing still covered by the guidelines, thereby creating a further unbalanced market.

Specifically, we have been asked to speak on behalf of the mobile home owners in Mississauga, and maybe I should state now that the mobile home owners were to present their brief at 9 o'clock. Unfortunately, they have been very busy lately trying to buy a piece of property and they aren't here. They have asked us to speak on their behalf.

There are approximately 350 mobile homes in five different parks in Mississauga. These tenants are in a special position where they have made a substantial investment in a home that is greatly decreased in value if it is not on a lot.

There is a shortage of mobile home lots and zoning does not permit a mobile home to be parked anywhere other than in a licensed mobile home park. If rent levels become too high for the tenants to afford, or if landlords single out tenants in these parks who have asserted their rights by charging unusually high rent increases, the tenants are out in the street with nowhere to park their trailers. They would be put in the position of relocating, often many miles away, just to find a place to park their homes; or they would be forced to sell the homes at greatly deflated prices as the homes would be without lots.

We cannot stress strongly enough how crucial it is for continued protection for mobile home owners.

The present rent review Act provides for heavy penalties to landlords who are in breach of certain sections. Although this should provide a suitable deterrent, it may as well not be in the Act if it is not enforced.

We have attempted many times to report known breaches to the Mississauga rent review office. Never once has a charge been laid. In fact, we have had to explain the difference between recovering costs in small claims court and proceeding with charges in

provincial court. Tenants who are taking or defending action in small claims court or county courts on the grounds of unlawful rent increases, or even tenants who are being evicted because they have enforced their rights regarding rent increases, are not presently protected by compliance procedures of the rent review office. Attached and marked as schedule A is a list of circumstances where compliance procedures are not taken. I'll just give you a chance now to look at schedule A.

This list was received from the Mississauga rent review office; we don't know if it is Mississauga or Ontario policy since we cannot find substantiation for it in either the Act or the regulations.

**Ms. Larocque:** We have come up with what we think might be an alternative to the present system and I'll just basically and very vaguely outline it.

The jurisdictions of the numerous systems which face a tenant who is experiencing a tenancy-related problem are so dispersed that we believe they are counterproductive if not extremely confusing to tenants. We are concerned that any system which replaces the present one maintain as high a level of the protection of due process as does county court, but be more informal and more accessible to tenants. We are also concerned that a more effective, more competent system replace those systems at present in existence.

Under those circumstances we would strongly advocate a residential tenancies commission. This commission would deal with all aspects of landlord and tenant relations, including the Landlord and Tenant Act, rent review, enforcements of both these acts, housing standards and prosecutions under relevant Acts the Legislature has jurisdiction over.

The commission should be two-tiered, both tiers consisting of highly trained people in landlord and tenant law, accounting and the principles of natural justice.

The commission would administer, mediate, adjudicate and enforce the legislation in the following manner: A clerk's division, similar to that of the county court, would ensure that all applications were properly completed, filed and served. It would also serve as an information bureau, making appropriate referrals.

Mediation: All applications dealing with matters such as rent increases, default judgements—I think you're probably all familiar with default judgements—security deposits and interest thereon, breaches of privacy and

a myriad of other landlord and tenant problems which we consider to be relatively minor problems, should be dealt with by a residential tenancies officer. This officer would attempt to effect a settlement, suitable to both parties which, in actuality, would be a consent order. These orders would be detailed, showing how the agreement was reached, including any financial calculations.

Adjudicative: All matters not settled would automatically be referred to a residential tenancies board. The board should consist of a landlord representative, a tenant representative and a neutral chairperson. All decisions of the board would be final and not subject to appeal, except in matters of law, jurisdiction and natural justice.

Enforcement: An enforcement division would be empowered to enforce compliance of the residential tenancies commission's orders by carrying out prosecutions, investigating any complaints and generally policing the legislation.

On May 31 we will be appearing before you again and will elaborate on the functions of a commission, but in the interim we hope this provides you with a basic outline. We would also suggest that these presentations not be the only opportunity for tenant input, but that we be allowed to submit another brief once the legislative changes are drafted. Although we did feel we received insufficient notice of this hearing, we regret that this brief could not be more comprehensive.

**Mr. Acting Chairman:** I think the brief's an excellent one. Thank you very much, Ms. Robinson, Ms. Larocque. Perhaps there are questions that our members of the committee might wish to pose at this time, but the brief's been very excellent.

**Mr. Epp:** I just have one question: I wonder whether you could elaborate on page three—you say the rent review office in Mississauga refused to deal with those unlawful increases which were less than the guideline itself. I thought they were supposed to enforce these?

**Ms. Larocque:** I live in a limited dividend building in Mississauga. Right now I'd like to take the opportunity to tell you that the representatives of 800 Richmond Street were not leading you astray in their statements.

Perhaps I can just explain the situation a little bit. I moved into this building a year and a half ago, which was after the problems had already occurred. The tenants in this building were receiving increases under the guidelines during the terms of their leases. This meant they would receive a notice from



the landlord saying, "You have to pay me eight per cent," and they would pay it. Because of the fact that the rent review office can only deal with increases of more than eight per cent, they refused to do anything about the situation.

**Ms. Robinson:** The tenants weren't allowed to make an application because the increase was during the lease and rent review has no jurisdiction over rent increases during the lease.

**Ms. Larocque:** Also, if I may expand on that a bit, the same happened last May when tenants received notice of a 16 per cent increase. At this time there had been enough stink raised about the fact that the landlord had got unlawful increases during the term of the lease that tenants were aware they did not have to pay for an increase during their lease.

After the 16 per cent notice of increase was sent out, the landlord sent out notice of an eight per cent rent increase. The tenants contacted our service and also the rent review office in Mississauga. They were advised by the rent review office in Mississauga that it might be more financially feasible for them to pay for an unlawful rent increase during the term of their lease than take a chance of getting hit with a 12 per cent or 16 per cent, or whatever when they came off their lease. That is what happened. Out of 344 units, 12 people did not pay for an unlawful rent increase, and I was one of them. So actually that is 11 people.

**Mr. Duszta:** You probably don't know, but it is interesting the number of people making presentations who have a set of suggestions. Many of them have agreed, including many landlords, that the rent review program should continue one way or another, preferably as strictly as possible, with no more increase—within six per cent or less, in some cases.

There were a couple of points that you made, which a number of other people have made, and which return constantly in almost every presentation—that the rent review legislation must be changed not to allow the financial passthrough—which is one of the major lacunae, I think, in the present existing legislation which allows unconscionable increases of rent.

I thought it was a splendid presentation and I am looking forward to your next one.

**Mr. Makarchuk:** You say on page four that you had problems, that the rent review office would be open during working hours, in which case it would be inaccessible to working people. Did you try to change that? Did

you contact the rent review officer to change that?

**Ms. Robinson:** At one point we asked if there were ever any night hearings. We had to get some information and we just couldn't get to the office during working hours. They said, "No, our hours are 9 to 5 just like any other office."

**Mr. Makarchuk:** Did you contact your local provincial member?

**Ms. Robinson:** Unfortunately, no.

**Mr. Makarchuk:** Do you think it would have helped if you contacted him?

**Ms. Robinson:** No.

**Mr. Makarchuk:** No?

**Ms. Robinson:** He could have.

**Mr. Acting Chairman:** I am sure he would have.

**Ms. Larocque:** We have three provincial members.

**Mrs. Campbell:** Once again we seem to be getting a consensus that we need to have a form of hearings other than the rent review process which we have today.

I would like to repeat a question I asked earlier. You have said that there should be one review of rents during the year, all at the same time for all of the tenants in the building. In some of the cases we heard earlier tonight there were discrepancies, even where large numbers in a building proceeded at one time. In view of that, have you given any thought as to how we could achieve greater consistency by having the annual review?

I have to tell you, I favour it, but it is because I hope we get greater consistency. Have you thought how this could be achieved? Unless you take the overall building—or a portion—it doesn't strike me as a good way to move.

[9:00]

**Ms. Robinson:** It's going to be unfortunate for tenants who are at present paying lower rents. I'm in the position that I pay a lower rent than most people in my building.

**Ms. Larocque:** Than I do.

**Ms. Robinson:** Ms. Larocque is in the same position, simply because we haven't paid unlawful increases in our buildings. We wouldn't want to see our rents skyrocket to match the other rents, but on the other hand, there are people who pay consistently higher increases. We're really not sure how it can be done, except that maybe this is something that should be done slowly and gradually.

**Mrs. Campbell:** You agree that there should be some kind of consistency for units of the same size.



**Ms. Robinson:** It's unfair for a tenant who moves into an apartment now to be paying more rent because, in 1975 when rent review came into existence, that unit had a higher rent. It's just unfair.

**Mrs. Campbell:** It's interesting, we had a landlord who said that too. There is some consensus.

**Ms. Robinson:** The landlords do not like the discrepancies either. They would just as soon see them evened out.

**Mr. Kennedy:** You mentioned, Ms. Robinson, that you've handled 4,000 cases since December 1976 and you're suggesting what I take to be a streamlining. You are going to enlarge on that a little later and we look forward to that. As I interpret this from the quick reading we have had of it, you are suggesting that we deal with something akin to a court—you mentioned provincial courts, small claims court, or county court. Do you feel that, as those offices are at present structured, the volume could be handled through such a medium in dealing with these cases?

**Ms. Robinson:** Through a commission, you mean?

**Mr. Kennedy:** Yes.

**Ms. Robinson:** I think so, yes.

**Mr. Kennedy:** Which would replace rent review?

**Ms. Robinson:** Not all 4,000 cases have gone to either court or rent review. The purpose of our office, as a matter of fact, is to prevent those things from going through the courts.

**Mr. Kennedy:** To head those off.

**Ms. Larocque:** It's our belief that if there was a commission that had a great deal of expertise in any type of landlord-tenant matter, that dealt with residential problems, that it could be much more quickly handled by someone who was experienced in that area rather than by sending tenants to a small claims court, for example, where who knows what could happen?

**Mr. Kennedy:** I am attracted to your idea of bringing the two together, rent review and landlord-and-tenant.

**Mrs. Campbell:** And housing standards.

**Ms. Robinson:** Right. I would like to state right now that we almost had a reluctance to suggest another commission or another government body that holds hearings—

**Mr. Kennedy:** I'm attracted to that too.

**Ms. Robinson:** —because we're very concerned that the quality of these hearings be maintained at a high level, without the discrepancies of the present office—some of them

we have stated to you tonight, some of them we just couldn't include in the brief. Maybe the Toronto rent review office handles more cases and knows more of what is going on, but some of the people who work in the smaller rent review offices just don't have a clue as to what is going on.

**Mrs. Campbell:** You would be surprised at Toronto.

**Ms. Robinson:** It's really important that the people who staff these offices are well-qualified and are trained and also are constantly kept in touch with what's going on. We know of decisions before our rent review office hears them.

**Mrs. Campbell:** Could I just ask one more question? Although you are talking about a commission—and I take it that is because it is a constitutional problem from trying the court route—if it could be done, I take it you are not opposed to a municipal court, or are you?

**Ms. Robinson:** We are not opposed to a municipal court as long as it is maintained on what for tenants would be an informal basis, but which, once again, would maintain the rights of the process of law.

**Ms. Larocque:** It's nonsensical to develop some type of system, whether it's a court system or whether it's a tribunal or whatever it is, to handle landlord-tenant problems unless it's going to function properly because the same thing is going to happen which has happened to rent review. It hasn't functioned, it hasn't provided affordable housing to tenants and it's ridiculous for anybody to spend time or effort in developing something that is going to function as poorly as the past system has.

**Mrs. Campbell:** Do I take it that, notwithstanding the fact of having fixed increases permissible, which seems to result in automatic increases for people, you would still like to have some increased ceiling?

**Ms. Robinson:** We can't get around it, really.

**Mr. Acting Chairman:** Perhaps just one last question. Mr. Makarchuk?

**Mr. Makarchuk:** On your first and second pages, what you are saying in effect is that the government should get into building houses at prices people can afford. Do you realize the cornerstone of the private enterprise system is the possession of property, and what you are saying is that there are thousands of—

**Ms. Robinson:** People have to say it.

**Mr. Acting Chairman:** Thank you very much, both of you, for appearing before us.

**Interjection:** Mr. Chairman, there are still a large number of people who are standing. Can we not get more chairs up here? Perhaps we could take these two tables out of the room and put additional chairs in here so that everybody could have the privilege of sitting down, not necessarily on arm-chairs with plush seats, but at least to be comfortable? Is it not possible to remove those two tables?

**Mr. Acting Chairman:** The clerk is going out to find some chairs. As far as I am concerned, you can come forward and sit on the edge of some of the tables. That might be a bit of help until we get some chairs in here.

Can we go forward now with the Fighting 5 Metro Tenants' Association; Joan Leach? Ms. Leach, would you be good enough to introduce yourself and your association for our benefit, please?

**Ms. Leach:** I will, yes. You will be very relieved; I have not made any suggestions for improvements. What I have is more of a personal experience of our own building and the reasons why we strongly favour rent review, no matter what form it is in.

**Mr. Acting Chairman:** Excuse me. Just before you get into that, would you mind introducing your organization for us?

**Ms. Leach:** Yes, I will. My name is Joan Leach and I am a tenant at 5 Hill Heights. It is a 37-unit building comprising five floors and it is situated in the area of Park Lawn Road and Berry Road, under the jurisdiction of the borough of Etobicoke.

Our tenants' association, known as the Fighting 5, is strongly in favour of the retention of rent review in a form which is in no way weaker than its present form. Our association came into being in November 1976, and obtained a 90 per cent membership immediately. The decision to form our own association was for the following reasons: no superintendent services for over one year; building in terrible disrepair; hot water and plumbing problems; inadequate heating; faulty appliances; faulty wiring; broken security locks on outside doors; faulty intercom system; cockroach infestation, mainly due to poor maintenance—the list was endless.

Prior to rent review legislation on July 31, 1975, we had faced two rent increases, each in the amount of \$20 in a period of less than six months. Served with a 90-day notice of an eight per cent increase by our landlord in October 1976, we appealed to rent review and brought proof of our dissatisfaction, including the fact that the owner had been

taken to court by the property standards division of the borough of Etobicoke for outstanding work orders and was subsequently fined.

The hearing was held in February 1977 and, after inspection of our building, the rent review officer allowed a five per cent increase. The building was sold in September 1977, and the new owner gave us 90 days' notice of a 25 per cent increase.

Rent review held a hearing on February 1, 1978, and many of the owner's costs not substantiated by supporting invoices were disallowed. We were given a 9.5 per cent increase.

There are other reasons for retaining rent review. Many tenants have an average or below-average income. None is on government assistance. Some are single working parents. Already a large percentage of their income is absorbed by rental payments. The units are already over-priced because of past heavy increases. Without some kind of jurisdiction, the rents would be astronomical.

The new owner has been granted an eight per cent automatic annual increase amortized over three years because of his claim of a heavy second mortgage. Why should the tenants be penalized because of large second mortgage payments? Without legislation or control of any kind, we would have had to pay this extra cost in the form of a large immediate increase. It would seem unreasonable that a landlord is allowed to invest so little of his own money in a building and then expect his tenants to bear the cost of the high second and sometimes third mortgages.

The argument of many landlords, "Move, if you don't like it," is ridiculous and unfair. Moving is very costly and there is no guarantee that your new place will retain a reasonable rent. We wholeheartedly support the federation's brief and would like to see the entire proposal put into effect. If rent review remains in force, it is strongly recommended that the landlord submit all costs with supporting invoices at least two weeks prior to the hearing. I speak from personal experience as a veteran of two rent review hearings. Thank you.

**Mr. Acting Chairman:** I think there is some room in that room. It's unfortunate, but perhaps that door can be opened and there might be a chair or two there available. That might help some people at the back of the room, Mr. Callfas, can you find any chairs outside the door?

Are there questions from the committee? If not, we do have another delegation to go



on. Your comments have been recorded and will be available for the committee once they're transcribed in Hansard. Thank you, Ms. Leach. We appreciate your comments.

Ms. Leach: Thank you.

Mr. Acting Chairman: Members of the committee, we have two delegations who have requested to appear tonight, although they are not listed on our agenda, and I would ask for the committee's direction. One is the Glenfern Tenants' Association. Are they here? Yes. Is there a spokesman for that delegation? Do you have a brief with you?

Mr. King: No, I don't have a brief but I think two or three of us could present a case about what has taken place in the building.

Mr. Acting Chairman: All right. Perhaps we can consider that in a moment. There is another brief from the Palermo Tenants' Association, 35 Confederation Drive. Are they here? Yes, they're on the right. Those are the delegations who have signalled to the chair that they are prepared to make a presentation this evening. Are there any other written presentations to be presented?

Mrs. Campbell: Mr. Chairman, I have received two letters with reference to a hearing to take place on May 9. I don't know whether these apartment people wish to speak to this meeting tonight. Could I have clarification?

Ms. Gittens: Our brief is not ready for tonight. What we would like to request is another night hearing for tenants.

Mr. Acting Chairman: We'll have to ask for a larger room as well. So far as I know, a second night is being arranged. The clerk will be in touch with the appropriate people regarding that matter. It might be more propitious to delay your presentation until that time. Then we have two delegations before us. Members of the committee, are there any objections to hearing from these two groups at this point in time?

[9:15]

I wonder then if we can call forward the Glenfern Tenants' Association. By and large we have tended to restrict ourselves to 15 minutes and that would be most appropriate if that could be accommodated.

Would you come forward please? I think if perhaps one of you acted as spokesman that would be most efficient, unless it's absolutely essential to go on to another person.

Who's the spokesman now?

Mr. King: My name is Brian King.

Mr. Acting Chairman: And whom do you have with you, Mr. King?

Mr. King: Pat Hayes—

Mr. Acting Chairman: Oh you're Pat Hayes. All right. Well, Mr. King, would you proceed and share with us your views?

Mr. King: As the rent review legislation was announced, rents were escalating at that time. I think they had gone from approximately \$150 per month up to about \$220 per month, if I'm correct.

Mr. Acting Chairman: Excuse me. Just describe your organization for us. Where is your building? Is it one building? Is it—

Mr. King: Yes, it's a 20-unit building, located in the Beaches area of the city of Toronto.

Mr. Acting Chairman: Go ahead.

Mr. King: For one or two years prior to that the owner had been trying to sell the building. After the rent review legislation came into effect, the owner sold the building for a stated \$300,000; later, at a rent review hearing, an 11th-hour mortgage came in, raising the selling price to \$500,000. Those costs apparently were allowed because many tenants suffered 40 per cent increases on their rents at that time.

Mr. Hayes: The rent review gave up to a 45 per cent increase on the total building as you look at it, and what came out in the rent review hearing at the time was a discrepancy of \$250,000. Getting back to free enterprise being a cornerstone of our society, \$200,000 was not claimed on the transaction of this sale. This was brought forth by the tenants' association and the Metro Tenants' Association in giving us legal advice. From this, there was actually a prosecution of the former landlord, who was fined \$12,000. But even with this, a 45 per cent increase in the total building was still granted to the new landlord for his heavy second mortgages that he had to do to justify the cost of maintaining the building.

Mr. King: I may add that his initial investment in a half million dollar business was \$5,000 and he only verbally stated he had another \$5,000 invested in it. A businessman buying a half million dollar business could not buy it for \$5,000 and then automatically assume that his clients would purchase his products at 40 per cent plus increases.

Mr. Hayes: It just seems amazing to me that in that situation at the time a prosecution can go through against an individual, who is surviving in a free enterprise system, for failing to claim that amount of money, and, at the same time, a rent review board can still give a 45 per cent increase



on a building. That totally boggles my mind. I'm a working man like everyone else and I look at the situation and say something is terribly wrong. It isn't working.

**Mr. Acting Chairman:** Your points are well taken. You might be good enough to drop a letter to us that might expand on it even more and we'll distribute it to the members of the committee. I think they'd like to have that at hand.

**Mr. King:** Right. There's one more step that has taken place here. Because the purchaser of the building—for \$500,000—was able to get these huge rent increases plus a questionable, or legal, eight per cent increase by asking for a 10 per cent rent increase then cancelling it saying you only have to pay eight per cent, with these high rents has now been able to sell the building for approximately \$550,000.

**Mr. Hayes:** Interestingly enough, what came to light in the Rent Review Board was the former landlord actually had an auction for one of the apartments going. The highest bidder, sitting in the apartment of people who applied at the time, could actually get the apartment—be damned to the Rent Review Board.

**Mr. King:** There were other problems too with certain apartments that were priced lower, because prior to the initial sale that we were talking about tonight certain units were at lower rents than other units. One of the initial moves of the new landlord was to give eviction notices of tenants on the grounds that he was going to do major renovations. When it came the four months' time was up and it came time for him to take the tenants to court, he didn't have any building plans or any intent of doing any renovations whatsoever. That, again, has currently taken place with a new sale on isolated apartments, just four or five apartments out of 20 units. There are evictions taking place on the grounds that there are to be major renovations.

**Mr. Hayes:** There are no building permits applied for with the city. It just seems to me that particular people within the speculation market use the government control of eight per cent, the government control of the rents and the total Rent Review Board for a leverage and, with this leverage, the people within the building suffer. If they apply, as did all the people who fought the last rent review hearing, where he got his 45 per cent increase, the majority of us have received eviction notices for renovations with no work permits applied for.

**Mr. Duksza:** You went through the appeal process already?

**Mr. King:** The initial one was that the tenants just told the landlord that he would have to go through the court proceedings in order to evict them and he just failed to do so.

**Mr. Duksza:** No, I'm sorry, I meant in the case of those increases you went through the appeal procedure?

**Mr. King:** Oh, yes and they were all upheld.

**Mr. Duksza:** At that level?

**Mr. King:** They were approved, first of all, by the rent review officer. We then appealed and those same increases were upheld by the appeal board.

**Mr. Hayes:** In four years, my rent went from \$145 to \$324.

**Mr. King:** The current application is—

**Mr. Duksza:** Your building is unfortunate.

**Mr. Makarchuk:** At the hearing, did the rent review officer try to find out who held the second mortgage and whether it was held at arm's length?

**Mr. Hayes:** Yes, he did. The former landlord who did not claim the capital gains tax was fined \$12,000 as a result of the verdict.

**Mr. Makarchuk:** That's for income tax evasion; it has nothing to do with rent control.

**Mr. Hayes:** That came to light in the hearing and the rent review officer cannot go into it any further. There has to be something within legislation, frankly, to stop a speculating landlord from using a free enterprise system against the people who perpetuate the system. That's why we're all here.

**Mr. King:** At the rent review hearing, it also came out that there was no contract of sale available at all, if I'm correct, and that part of the contract of the sale was only \$300,000 to clear the mortgages. The balance was to be a tradeoff of two pizza stores. The two landlords couldn't come to an agreement on the value of these pizza stores so the new owner arbitrarily filed a mortgage, which one can do. They can go in and do that, if there is a mortgage on the property.

**Mr. Makarchuk:** What bothers me is that there is such a thing as a real mortgage where money actually trades hands and then there is a dummy mortgage which is on paper and signed.

**Mr. King:** Right, and apparently this was accepted.

**Mr. Makarchuk:** By the rent review officer, in other words. It was there, but had he

checked to see whether there was an actual bank transaction of money taken from one account and deposited in another account?

**Mr. King:** There is really no transfer of funds when an owner of a property writes a mortgage back to a purchaser. There's really no transaction of funds to a bank account.

**Mr. Makarchuk:** In other words, what you are saying is that the original owner first sold it for \$300,000 with a mortgage, and then he took another mortgage for \$200,000, an additional mortgage on it.

**Mr. King:** The previous owner didn't do that. The new owner just filed the mortgage. He just said this mortgage now exists, this \$195,000, because I couldn't come to an agreement with the previous owner on the pizza stores.

**Mr. Duksza:** That's like legalized robbery.

**Mr. Makarchuk:** I'm just trying to figure it out. There has to be two parties to a mortgage.

**Mr. King:** In this case, there wasn't; there was only one.

**Mrs. Campbell:** There has to be.

**Mr. Makarchuk:** The rent review officer accepted that?

**Mr. King:** Yes.

**Mr. Makarchuk:** Didn't he question that at all?

**Mrs. Campbell:** Did they not produce a mortgage stop payment?

**Mr. King:** To my knowledge, none was produced.

**Mrs. Campbell:** Did he give attention to the mortgage?

**Mr. Hayes:** Shortly afterwards, the rent review officer was transferred out of our district.

**An hon. member:** He's gone to Moosonee.

**Mr. Epp:** Was he promoted following the Peter Principle?

**Mr. Acting Chairman:** Thank you very much, gentlemen, for sharing with us that story, which is unfortunate but somewhat amusing in an ironic way.

**Mr. King:** Unfortunately, that was taking place in the embryonic stages of rent review, but now that we've had many of these experiences, I think some form of review should be continued to prevent this turnover of property where no productivity or improvement in the building is taking place. It's just a parlaying of profits that's going on.

**Mrs. Campbell:** Could I ask a question for clarification, Mr. Chairman?

**Mr. Acting Chairman:** Yes.

**Mrs. Campbell:** I think this is a case that interests every member of this committee, and I would like to be assured that we are going to get something in writing that clarifies some of the statements. I'm a little confused about some of them, and I can't understand them. If we could get something in some kind of point form even, we could follow it.

**Mr. King:** Certainly. We could prepare something like that.

**Mrs. Campbell:** It should be a matter of record.

**Mr. Hayes:** If I may, I'd like to say something—

**Mr. Acting Chairman:** Do you have a copy of the rent review officer's decision?

**Mr. King:** Yes, we do.

**Mr. Acting Chairman:** That's a start. Perhaps if you would provide that, along with a letter documenting this, I think we would find that very useful.

**Mrs. Campbell:** Mr. Hayes indicated he wants to say something. Could we hear him?

**Mr. Acting Chairman:** Go ahead.

**Mr. Hayes:** Going through this, and I never got much involved in anything like this before, I was quite interested in what happened with the government procedure through the rent review. What I want to make a point on is how it seemed to me when I was in the rent review hearings. It seemed like a parent-teacher association out of control. I was really amazed, because I thought there was more responsibility directed towards responsible people dealing with responsible issues towards everyday activities of human rights.

**Mr. Acting Chairman:** Would you two be good enough to ensure that, within the next week, we receive as much documentation as you can provide on the matter?

**Mr. King:** Would it be possible also for us to receive transcripts of those rent review hearings that took place? Are they part of the public record?

**Mr. Acting Chairman:** I don't think a transcript is taken. Is there?

**Interjection:** There are notes taken for the benefit of the rent review officer but they will not allow those notes to be published.

**Mr. Acting Chairman:** I think the committee has the capacity to summon whatever information is available; we will take that upon ourselves, if you will be good enough to provide us as much documentation as you



can provide—the rent review officer's decision, which will tell us what it is and where it is, and, as well, your written comments. We do have the record of the information you've given today; that will appear in Hansard and will be available to us, but any additional information that you can elaborate upon would be most welcome.

**Mrs. Campbell:** Including dates, if possible.

**Mr. King:** That's right. One reason for requesting a transcript is that it was two years ago, and we could have the official record to refer to.

**Mr. Epp:** One thing, Mr. Chairman: Either I missed it or he didn't give the addresses—

**Mr. Hayes:** From 15 to 21 Glenfern, inclusive.

**Mr. Epp:** Where's that?

**Mrs. Campbell:** In the Beaches.

**Mr. Hayes:** Silver Birch; south of Queen. Interestingly enough, where the ambiguities come up in this rent review is that you end up with a piece of real estate that's pretty choice in the city; and, through the way things have been going, one landlord is fat—he's been paying his expenses; everything's been working well for him and he decides to sell the building to another purchaser. The other purchaser looks at it and says, "This is a pretty good speculative property. I can build a paper empire here. I can get myself a lot of collateral happening in town and I can make free enterprise really work for me."

He goes in and you get people like me living in the building. I've been there five years, and nobody's painted a wall since I've been there; and I told you what my rent increases have been. I look at it all in total amazement; when you go in front of a government officer, you sit there and you see that the government officer just totally gives people the right to do this to other people. I just can't understand it. I totally can't understand it.

[9:30]

**Mr. Acting Chairman:** Thank you again for sharing your views with us.

We'll now move on to the Palermo Tenants' Association, 35 Confederation Drive in Scarborough. Elizabeth Sherk, are you there—

**Ms. Sherk:** I'm Elizabeth Sherk.

**Mr. Acting Chairman:** —and who do you have with you?

**Ms. Sherk:** Ena Brennan of 35 Confederation.

**Mr. Acting Chairman:** Thank you.

**Ms. Sherk:** And may I introduce the other members of the association who have come tonight?

**Mr. Acting Chairman:** Yes, would you please?

**Ms. Sherk:** Pablo Leacock and Michael Solomon and Sheila Folkard.

**Mr. Acting Chairman:** Thank you, we do have a brief now that is just being distributed to members of the committee. It's quite a copious brief so perhaps the best thing would be for you to touch on—

**Ms. Sherk:** I won't read the whole brief, I'll read the first part. The brief consists of a main part and three or four appendices; I won't read the appendices, I'll just state what they deal with.

**Mr. Acting Chairman:** Thank you.

**Ms. Sherk:** A righteous man knows the rights of the poor. A wicked man does not understand such knowledge. We, the tenants at 35 Confederation Drive, Scarborough, endorse the brief presented to this committee on April 19 by the Federation of Metro Tenants' Associations. Our building consists of 131 apartments, 10 to 15 of which are usually vacant. Fifty-one apartments were registered with the Palermo Tenants' Association from March 1977 to April 1978 and affiliated with the FMTA.

By insisting that "housing is a fundamental human right and the responsibility for providing it is a social one"—from the FMTA's brief, part A, paragraph one, page one—we mean that everybody has the right to secure for himself good shelter and that the responsibility for upholding that right falls on every one of us. There are many obstacles in our urban system which hinder people from participating effectively in this right and responsibility.

One mighty obstacle is the multiplication of bureaucracies, therefore we strongly support the concept of a residential tenancies commission, proposed in part C of the FMTA brief.

An individual tenant with a grievance—and we all know the grievances that tenants have so I won't read that—is bounced from one office to another, getting no satisfaction from any, until in weariness, she or he gives up and does not bother to get the grievance solved.

A particular instance of this occurs repeatedly in our building. The landlord levies rent increases, first to one apartment then to another—up until October 1977 within the eight per cent guideline, and since October 1977 within the six per cent guideline—but I know of no one who have availed themselves of the Rent Review Board, in spite of the fact that complaints about poor maintenance have been epidemic in these buildings.



There is a mood of despair. What's the use? If the complaint is over poor maintenance, they'll be shunted out of the rent review office down to the courthouse on University Avenue, and told to file a summary action under section 96. Having done that in our building we're finding out that there's nothing summary about that course of action at all.

In the meantime, the date of the rent increase comes due and tenants pay up or move out. The power of commerce and investment has been strengthened while the freedom and well being of the citizen has been sacrificed. And I'd just like to point out that appendix No. 3 is an excerpt from William Stringfellow's book, *Freedom and Obedience*, where he talks about the city as being a reconstitution of the feudal system of the past.

One comment about the way the rent review process presently operates as an obstacle to responsible tenant action: It is very difficult for tenants to get accurate information about the landlord's use of their rental fees.

Just to interject here, I am not a veteran of a rent review hearing yet, but I am going to be on May 9. I went to the office today to ask whether the landlord had submitted his cost-revenue analysis. The woman finally came out after 15 minutes and said, "I'm sorry, but he won't have them in until May 4," which is Thursday. She said, "Come back. Come back."

All right. The landlord has a strong interest in not having this information easily available. The policies of the rent review office of refusing to send copies of landlords' information when requested to do so by tenants who are party to the hearing, of insisting that they come personally to the office—especially when office hours are over at 4:30 or 5 o'clock—and of charging 20 cents per sheet for photocopying, all have the effect of discouraging tenants from taking active responsibility to secure good value for their money. The rent review process must help to open relations between landlords and tenants not side with landlords to keep tenants in the dark.

My appendix No. 4 consists of—unfortunately, I only had one copy so there's only one copy in this brief—but it consists of correspondence which—

**Mr. Acting Chairman:** I wonder if we can identify who's got the copy? Here it is, we've found it. Thank you.

**Ms. Sherk:** It consists of correspondence which we've had with the rent review officers in Scarborough, and also with Mr.

Grossman, the Minister of Consumer and Commercial Relations. To date, I have not had an acknowledgement of that letter to Mr. Grossman, which basically asks why a government office or government program set up to curb inflation should be charging 20 cents per sheet for photocopying when you can get it done for 10 cents in the library.

**Mr. Epp:** When was your letter sent?

**Ms. Sherk:** March 29, and it's now the end of April.

**Mrs. Campbell:** This is May 1.

**Ms. Sherk:** May 1. In addition to the federation's proposal concerning residential tenancy commissions, let me say this: Let the commissioners be itinerant, moving from building to building, holding their hearings in the recreation rooms or the front lobbies of the disputed buildings. This would certainly facilitate the involvement of tenants in the process of getting the most value for their money.

Finally, may I say that this is the first time I've ever stood to present a brief to a government committee. I wish to remind us all that the truth, and only the truth, will liberate people. Long ago, a man made the bold claim, "I am the Truth." He challenged the unbelief of His hearers then and He still challenges our unbelief. It would be fitting for every one of us to humble ourselves in discipleship to that man. He will give us the courage and the wisdom to do what is right in the matter of landlord-tenant relations and not simply what appears to be economically expedient.

May I just mention that appendix No. 1 deals with a suggestion that the leeway allowed for the serving of notice of rent increase should be minimized. We personally have experienced a dispute over that, which wouldn't have been necessary if it had been sent by registered mail or signed for personally by us upon receiving it. Thank you.

**Mr. Acting Chairman:** Thank you. I wonder if the members of the committee have questions they'd like to pose now? Well, you've made an excellent brief and you've completely winded the committee.

**Ms. Sherk:** Thank you very much.

**Mr. Acting Chairman:** Thank you very much for appearing before us.

**Mrs. Campbell:** Excuse me, will we get copies of the appendix that we don't have?

**Mr. Acting Chairman:** Yes, the clerk, Mr. Callfas, will see that members of the committee receive copies. Members of the delegations here or anyone else present who wish

to have copies of this evening's proceedings may contact the clerk and I'm sure that without too much charge he'll provide you with a photocopy. In fact, I suspect that without any charge he'll provide you with a copy of this evening's proceedings. Mr. Callfas, can we count on that?

**Interjection:** Could you tell us when that might be available?

**Mr. Acting Chairman:** Four days. Would that be satisfactory? That concludes this evening's meeting.

**Mr. Duksza:** Are we having another night meeting on this Wednesday?

**Mr. Acting Chairman:** If there are delegations who wish to make a presentation, and if an evening sitting is requested, it will be arranged. Mr. Callfas is going to rush off at the moment to determine that and come back.

**Mrs. Campbell:** And let them know that it will be late if it's going to be Wednesday.

**Mr. Acting Chairman:** The last I heard was that it would be Wednesday if there were delegations. We do have the one delegation, I believe—I'm sorry, what was the name of your group?

**Mrs. Campbell:** Scarborough, will you be ready on Wednesday? No?

**Mr. Acting Chairman:** Will you be ready on a week Wednesday? Perhaps that can be

established. I'll leave you to deal with Mr. Callfas in setting that up.

**Mr. Duksza:** We should make sure it is advertised in the newspapers, because some people don't know about that.

**Mr. Acting Chairman:** We'll take the point that you've noted and see if we can do something about that.

**Mrs. Campbell:** Could we ascertain whether any other group would like to be here a week from Wednesday, so that we know at this time something about the agenda?

**Ms. Gittens:** I think that if there is sufficient notice that there is going to be another night hearing a week from Wednesday, then other groups will want to be present who could not make it tonight.

**Mr. Acting Chairman:** Thank you. Are there other delegations here who would wish to present a brief that evening? Perhaps we may leave it that if there are, you will contact the Clerk of the House, Mr. Callfas. His telephone number is 965-1406. If you would contact him, you can make the necessary arrangements. Thank you for coming. The meeting stands adjourned.

The committee adjourned at 9:45 p.m.

## SPEAKERS IN THIS ISSUE

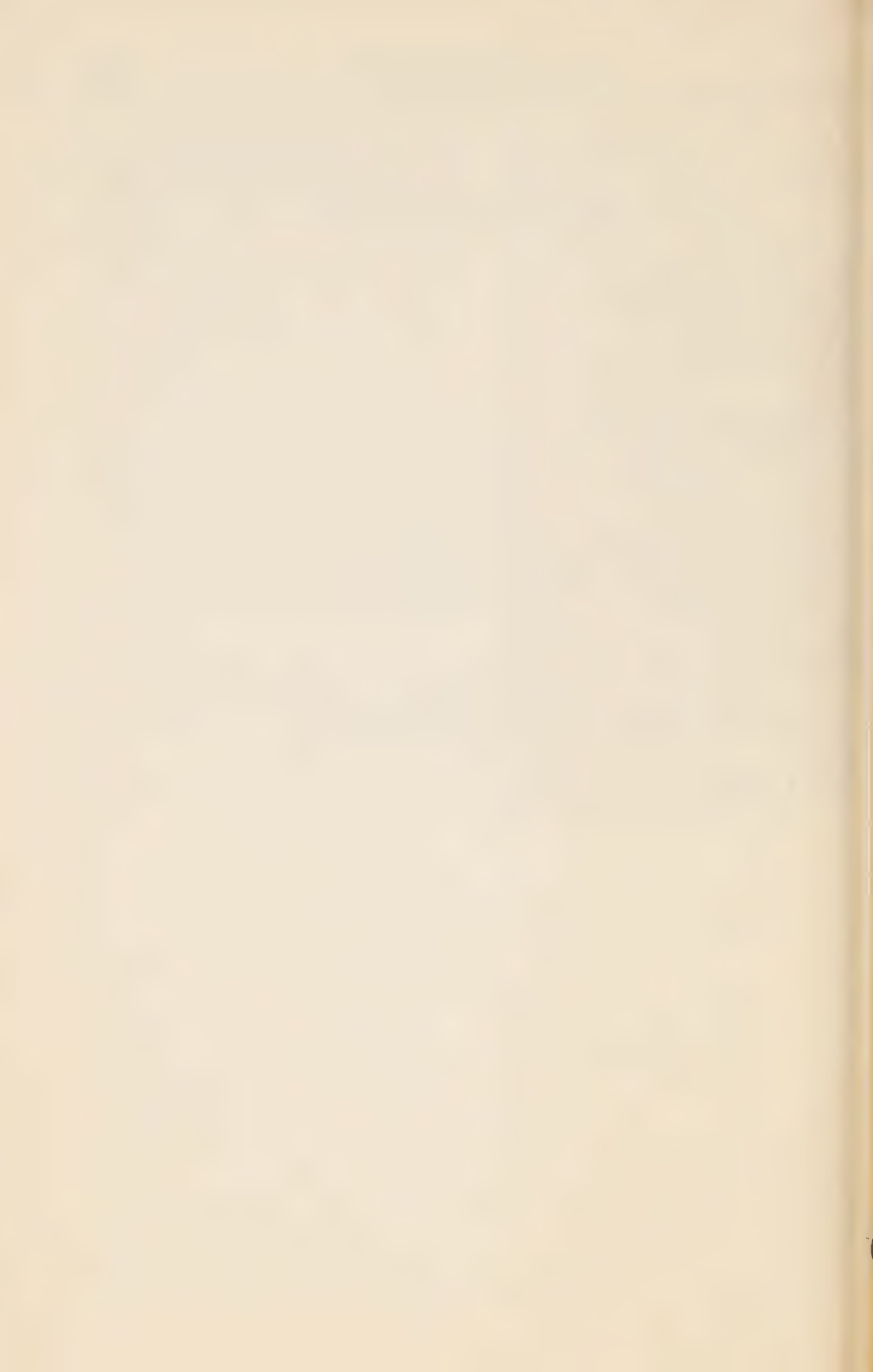
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Ashe, G. (Durham West PC)  
Campbell, M. (St. George L)  
Dukszta, J. (Parkdale NDP)  
Epp, H. (Waterloo North L)  
Hall, R. (Lincoln L)  
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McCaffrey, B. (Armourdale PC)  
Philip, E. (Etobicoke NDP)  
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Scrivener, M. (St. David PC)  
Walker, G.; Acting Chairman (London South PC)

### Witnesses

Gittens, M., Barbara Apartments Tenants' Association  
Goetz-Gadon, S., Federation of Metro Tenants' Associations  
Hanley, P., 25 Duncanwoods Tenants' Association  
Harrison, G., 33 Eastmount Avenue Tenants' Association  
Hayes, P., Glenfern Tenants' Association  
King, B., Glenfern Tenants' Association  
Larocque, D., Mississauga Tenant Action Centre  
Leach, J., Fighting 5 Metro Tenants' Association  
McMurray, A., President, 33 Eastmount Avenue Tenants' Association  
McMurray, H., 800 Richmond Street West Tenants' Association  
Riddell, J., Secretary, 800 Richmond Street West Tenants' Association  
Robinson, L., Mississauga Tenant Action Centre  
Sherk, E., Palermo Tenants' Association  
Wisman, L., Director, Landlords' Self Help Centre







No. G-10

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection

### **Second Session, 31st Parliament**

Wednesday, May 3, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 3, 1978

The committee met at 10:17 a.m.

### TENANT PROTECTION (continued)

**Mr. Chairman:** Gentlemen, we have representatives from each of the caucuses here now. I think it would be appropriate if we started. First, though, I would like to draw everyone's attention to the fact that you have your agenda for today. We have a couple of quite lengthy briefs. I would request that everybody try to co-operate to the extent that we let those who are presenting their briefs proceed all the way through before we get into the questions and to keep the questions as tight as we can.

In particular, Mr. Burton's brief and the one from the University of Toronto are quite lengthy. If it's possible for these gentlemen perhaps to paraphrase the briefs, I think it would save time. If it's possible, the committee would appreciate that. We'll try to proceed as quickly as we can.

Perhaps we would take a moment to consider what happened Monday evening, too. We had a goodly lineup of witnesses, and the question has been asked whether we should provide another evening. The clerk tells me that considerable requests have been made for hearings in the evening. Are there any views on that?

**Mr. Epp:** Mr. Chairman, are you speaking about another evening in addition to next Wednesday, or about next Wednesday? I thought it was agreed last Monday that we would have a meeting next Wednesday.

**Mr. Chairman:** We had set aside that, had we?

**Mr. Epp:** We tentatively established next Wednesday, May 10—

**Mr. Warner:** The evening?

**Mr. Epp:** Yes. That's what we told the people here when they met on Monday evening.

**Mr. Chairman:** We'll proceed then on the basis that if, as and when requests for hearings come in, and the evening of Wednesday, May 10, is required, we will fill that out.

**Mr. Epp:** The other point that was raised the other day was the meeting room. It was

quite tight in here. There weren't sufficient chairs for all the people who came. I'm not sure of the number we're going to have next Wednesday, but the consideration might be given to having a larger room if there is one available. I don't know.

**Clerk of the Committee:** The only problem with that is, the only place we could go would be the Mowat Block, and we can't record there. We would have to depend upon a verbatim reporter, and we wouldn't get the minutes back for two or three weeks.

**Mr. Breithaupt:** If we changed our location, it would also be very confusing for the public, who perhaps can find us more easily here than they might in the Mowat Block. I would suggest we commit ourselves to start at 7 next Wednesday evening, to encourage as little repetition as possible and to sit through until we've dealt with every citizen who comes in, because we won't have any other time to do it and we must be available to the public, of course.

**Mr. Chairman:** Is it the feeling of the committee then to meet on Wednesday evening, May 10, at 7?

**Mr. Makarchuk:** Yes, I think that was the understanding. I think the tenants' groups are under the impression that there is a meeting next Wednesday evening.

**Mr. Chairman:** Good. Then if we can begin—David?

**Mr. Warner:** Just a couple of other things. For May 17, which is the out-of-town day, is it our intention in each of those cities to make the evening available? Otherwise, most of the tenants aren't going to get there. So in each of the four cities can we provide an evening session?

**Mr. Chairman:** I think it should be.

**Clerk of the Committee:** That would mean you would have two nights away.

**Mr. Warner:** I was going to say "performance," but "session" describes it.

**Mr. Breithaupt:** We have to go the evening before if we are to start early in the morning. I suppose it depends on who's interested in wishing to come before us. It may be in some places that one could go early that morning, because people want to see us in

the afternoon and evening, and come back the next morning. On the other hand, it may be better to go the evening before if there is a demand for morning, afternoon and evening involvement. I guess we won't know that until we—

**Mr. Warner:** Yes.

**Mr. Breithaupt:** But we have not that far to go that we can't make pretty short travel arrangements.

**Mr. Makarchuk:** Also, I think we should have an understanding that probably there will be the same problems to be faced with tenants out of town as in town. In other words, they would want evening sittings.

**Clerk of the Committee:** Two nights you want then?

**Mr. Chairman:** If necessary.

**Mr. Makarchuk:** If necessary. In, say, Ottawa, you can go there in the morning and sit during the day and evening and come back the following day.

**Mr. Breithaupt:** That might be fine for a lot of tenants, for example.

**Mr. Warner:** The afternoon and an evening may be sufficient. We may not have to sit in the morning, but we won't know until we get back the flood of requests based on our ad.

**Mr. Breithaupt:** True. Is that agreeable to the committee?

**Mr. Chairman:** Yes.

**Mr. Warner:** I have two other matters which are important. I think they're extremely important. I don't want to keep people waiting, but it's a matter of substance for the committee. One is with respect to fees and the other is with respect to the letter dated April 24 to the chairman of the committee from Mr. Lionel Feldman on the consultant's duties and responsibilities.

**Mr. Breithaupt:** I think we can perhaps discuss that when the public hearings are finished today so that we can resolve what those concerns are.

**Mr. Warner:** Yes, I'm quite happy to deal with it in camera if that's the wish.

**Mr. Breithaupt:** I was thinking more of just not taking the time of citizens.

**Mr. Warner:** Yes, as long as it's agreed that we can deal with it today, because I think it's a matter of considerable importance.

**Mr. Chairman:** I agree and if the committee concurs, we'll do it at the end of the day.

**Mr. Burton,** if you would approach the chair and identify yourself, sir.

**Mr. Burton:** Thank you, Mr. Chairman. My name is Richard Burton, and I do have a lengthy brief that I have given. If there aren't enough copies, I will certainly supply more. I don't intend to read my brief but I sincerely hope that all of you will read it in great detail. Instead, today I have paraphrased and will emphasize what I think are the most important points.

I am the manager of some 1,200 apartment suites in Toronto, Hamilton, London and Sault Ste. Marie. Just about everybody seems to forget that landlords are people too. I've got a little button here—"Landlords Are People Too." Landlords also have families, they have to pay the increased costs of milk, bread and even OHIP premiums.

Increases in rent have substantially lagged behind the consumer price index. In the material filed, I have given you a letter from Statistics Canada which indicates that, 1976 over 1975, the consumer price index was 16 per cent more than the average increase in rents in the Toronto area. In 1977 over 1976, it was 26 per cent more. That has got to mean that landlords are subsidizing rent out of their own pockets.

I firmly favour no rent control at all, except for perhaps in the extremely rare cases of unconscionable rent increases, and I would have that handled by the Unconscionable Transactions Act. The AIB is being disbanded now and it should take about a year for it to be totally dissolved while contracts expire. It is simply unfair and wrong to control one segment of the market while the others can float free. A plumber, a doctor, a lawyer are free on the market. Wages will be free on the market. You want to control one segment, landlords. That's wrong.

When governments enter into the housing sector, they do so in one of two ways: either they control, such as in our rent control program, or they go into the business themselves. Either way they mess it up. One official from Ontario Housing gave me the figure. They estimate it cost 20 per cent more for government to administer than it does the private sector. Once more you have a great deal of waste. You have government bureaucracy waste. You have landlords' waste. I estimate it costs \$8 per suite per month just to administer the program. In addition, you have the tenants' time and their assistance also. All that help adds nothing whatsoever to the finished product, the unit. Apartment living is no better.

I say that rent today is a real bargain. Perhaps what we have is some sort of communications gap. Perhaps if tenants had their own home or ran an apartment building they



would see how costs have just gone wild. I must say that before rent review I did not have an opportunity to really examine my costs. I took some cost figures, going back to my 1973 statements and comparing them with 1977.

I'll read just a few of these figures, and these are included in my brief. Gas—there is a percentage increase of 176 per cent. Wow. Oil, 183 per cent. Taxes, 44 per cent. Insurance—get this now—258 per cent. A new refrigerator costs 68 per cent more today than in 1973. Painting—lots of oil in paint and oil has gone up a lot—89 per cent. To repair a lousy window, 24 by 48 inches, 150 per cent. A key which used to cost 50 cents is now \$1, that's 100 per cent. Fridge and stove repairs: it costs \$36 an hour to get a stove fixed. And it won't let up. It's just going out of sight.

You have to understand a landlord's mix of cost contains the most rapidly increasing expenses: taxes and oil. These two items landlords have no control over. It's not like a manufacturing industry where if times are a little bit slow you cut back on wages, you let some staff go, you cheapen the product a little. You can't do it. You have to get heat and you have to pay your taxes of course.

Do you know that today it costs between \$26,000 and \$27,000 to build an apartment unit? That is \$3,200 a year or about \$265 monthly which is just about the average rent in the province; perhaps it's a little bit low. Therefore, if the landlord charges in the neighbourhood of \$265, all he gets paid back is the interest on his money. The landlord never recovers his capital. This is on today's basis.

And why? I think we also have to look back and say, "Why does it cost \$26,000 or \$27,000 to build a unit?" As well as managing apartments I am also a property developer. We are building apartment houses and housing projects in the Toronto area. We find this delay—and it has been in the papers several times—is because of government bureaucracy at all levels—federal, provincial and municipal.

We are also building in Florida in the Sarasota area. Did you know that in Sarasota you can put a housing unit on the market for about 45 per cent less than you can here? Building costs and land costs are about the same. It's because of government; programs like rent review, and all the other legislation—municipal legislation especially.

What the problem is for the Canadian investor, landlord, developer, is a total lack of confidence in all levels of government. Where is it going to stop? He doesn't know;

he moves elsewhere. One speaker had a rather cute comment. He said, "You know, the provincial government has finally done what the federal government could never do; they got the concentration of wealth out of Ontario."

[10:30]

One thing we are not considering, gentlemen, that people have not talked about, is risk. When a developer built, say, away out in Scarborough 10 or 15 years ago, he had a substantial risk. Would he make money, would he not? A lot didn't. We were fortunate. In our own case, we bought two bankruptcies. The people we bought them from lost their shirts. There is risk and risk must be rewarded.

People did build at that time, and did take a risk, and waited out the many lean years. I remember that to entice people to rent apartments in the early 1960s we used to give them a black and white television; we used to give them two months' free rent. Those were the lean years. Now the market is a little bit better and there is a fair balance. Our apartment buildings are not some sort of commune. We don't have to share with everybody. We took the risk. Instead of taking another alternative, a safe thing where you have no work and no aggravations, such as Canada Saving Bonds, we bought apartment buildings.

Another very important thing, which is an excuse for having rent control, is vacancy rates. I don't think they're all that bad. CMHC takes surveys, and they called me. To tell you the truth, I lied to them. In the years when we had lots of vacancies, I lied to them. Businesswise, it's embarrassing; I wouldn't want to tell them I've got half a building empty. And marketwise, if a tenant comes, you don't tell him, "I've got 30 empty suites, take your pick." You say, "Hey, I've only got two left. You had better go on and take one. They'll all be gone tomorrow." That's wise marketing.

Tenants today also say they have no mobility. I have said before that I don't think vacancies are all that bad. There is another alternative for tenants. We hear different figures, but there are some 14,000 to 20,000 empty condominium units on the market. Because there are so many, the developers are giving many of them away very cheaply. They have monthly payments which compete very favourably with rentals, and in addition to that, the purchaser gets appreciation. A tenant also has the alternative to move into areas like Hamilton which has drastic vacancy rates. We have buildings in Hamilton



that, right now, are some 15 per cent empty. In an attempt to rent them, we are renting them first on a weekly basis.

Perhaps tenant demands are a little too high. Perhaps they don't want to pay the cost of their demands. They want apartment buildings with swimming pools, saunas, nicely finished lobbies, carpet in the apartments or parquet floors; they want to be on main transportation routes. These things cost money. You have to pay for them.

I maintain that we need a return to the free market system. If there is an end to rent review, I suppose some rents will go up; but that's good, that's a good thing. People then will start buying the empty condominium units. They'll move to Burlington, which also has a vacancy problem. Therefore, there will be vacancies in Toronto. If there are vacancies, there is a market pressure to keep rents down. By increasing the supply, prices are pushed down.

This will do something else for Ontario. There will be fewer condominium units, more development, and people will be put back to work. I am ashamed to say this—I really shouldn't say I am ashamed, because I am not responsible—but with managing 1,200 suites, I am directly responsible for 11 men out of work. These are superintendents, extra cleaners, janitors, extra repairmen. I let them go because of rent review. For example, in a 300-suite building in Toronto, we had a painter on almost fulltime. He had four men; now he's got two.

The bad thing about our current system is that it does not encourage the landlord to spend money on his buildings to make them a credit to the community. In fact, he is downright penalized. For example, we have a building in North York now that desperately has to be recarpeted. The carpet is a mess. It is frayed, it is torn and it has stains on it. But I have to go to the bank to borrow that dough for some weird interest rate. They charge interest of about 12 per cent. So, for every dollar I spend I get back 88 cents. You would have to be a jerk to invest money in carpet like that as you lose. We don't do it, and the building looks just terrible. I am ashamed of it myself. I had pride in ownership but I can't afford that pride any more. The same goes with painting the balconies. They are rusty, they are dirty, they are stained and they are faded. They have to be fixed. But if I can't get the interest and if I can't get a little something in return for myself, I won't do it.

Another very real cost to consider is personal aggravation. There is the time, the trouble and the bother of going for rent re-

view. Rent review hearings in my case—and I have been to 33 of them—in all but two have been absurd kangaroo courts, a floor for tenants to air petty nothing problems. One guy was upset because the fire department made us number our floors and, instead of calling his floor one, as we used to call it, we called it the basement. This chap went on for half an hour as to why it was called a basement. We conceded and, instead of calling it the basement, we called it the esplanade.

The only solution, and of dire need to this province to give Ontario decent housing, the best housing, which we have had up until now, is to end rent control. To go on with rent control will only make matters worse. Time and again that has been proven. Look at the examples. Look at New York, London, England, and Paris. They say in Paris people watch the death notices. When someone dies they are queued up at the door to get his apartment.

We have to encourage landlords—all government levels have to encourage landlords—not only to build but to fix up their old apartment buildings. This is a day when we have learned we can't have a throwaway society. We can't throw away old pop bottles and we can't throw away old apartment buildings either. We have to encourage landlords to fix them up. In the Rosedale area and the High Park area, the posh areas of the city, there are apartments that have immense units, three-bedroom units with big living rooms and big dining rooms. They can easily be converted to perhaps two one-bedrooms. But, no, that's a terrible thing.

It has come to be in Canada, unlike Florida—and I am very familiar with Florida as we now have nine deals in Florida—that if you make money in Canada, you are terrible; you are the scum of the earth. I don't understand it. You are branded as ripping off the public. In the States you make some money, you invest your money wisely and make more money and they say, "Good, he's a smart guy. He saw an opportunity and grabbed it." In the process, jobs have been created and a community has benefited.

Look at me today, I'll give you a profile, both sides. Remember me and remember this day, May 3, 1978, and think of me before you 10 years from now, or 15 years from now, or maybe even less. Think about key money; think about an immense tax collection needed to go and subsidize government housing. Remember whatever government does, it costs them twice. Look at the post office; that is another story. Think about waiting lists. This will happen, I assure you.

I would like to close with a quote by Gunnar Myrdal, who is a noted economist. I will give you a book containing an essay of his. The book is written for the Fraser Institute by noted economists, many of whom are what is termed socialist economists who have had experience with the systems in Sweden. He said, "Rent control has in certain western countries constituted, maybe, the worst example of poor planning by governments lacking courage and vision." I have one more—and listen, remember me in 10 years; look at me now. "In many cases rent control appears to be the most efficient technique presently known for destroying a city except for bombing."

**Mr. Chairman:** Mr. Burton, just before you go, Mr. Walker is down on the list, and I think there is time for a few questions. But if I may ask, you are an owner and a developer, operating now in at least two markets, Canada and Florida?

**Mr. Burton:** Yes.

**Mr. Chairman:** If I may ask, when did you leave to begin operations in Florida?

**Mr. Burton:** Three or four years ago; a little before rent review, but still when we saw the writing on the wall of more and more government controls and it takes 10 years to get a plan of subdivision under way.

**Mr. Chairman:** And further to that, one last question from me. You implied that in Florida the cost of land was about the same and the cost of the building I think you said about the same, and yet the per unit costs were 45 per cent lower, and you attributed the bulk of that to government costs.

**Mr. Burton:** Yes. I understand that a townhouse or a semi which here in the city can sell for somewhere around \$100,000, you can put on the market there for \$55,000 to \$60,000.

**Mr. Chairman:** It is just that a 45 per cent difference all attributed to government seemed surprisingly high to me.

**Mr. Burton:** Absolutely, the costs are the same. It is made up of a mix of reasons; most of it is time. You can build there in a year, two at the very most. If a developer buys a piece of land now and has to hold on to it for eight years for some weird reason only God knows, the federal government does not allow him to write off the interest on the vacant land. So what does he do? I think governments at all levels now are talking about a currency control. This guy Trudeau has to be a jerk. Instead of making Canada more attractive and giving the Canadian people confidence he is putting more and more controls on and shooting people away.

**Mr. Kennedy:** What are you going to say to that?

**Mr. Walker:** Mr. Burton, some of your points are certainly well taken in my own mind. I would, however, pass back one of the comments you made that there is a certain amount of gouging. That has been one of the problems—probably the greatest problem—that really brought about rent control in the first place. I think government was probably a bit of a reluctant bride on that subject, but certainly the gouging aspect created the most problem.

So that is a problem, and could still be a problem. What is your solution to that? Is there something in between absolute freedom of the enterprise system as it relates to landlord-tenant relations, and, of course, the other extreme—

**Mr. Burton:** I believe that would be remedied in two ways. One is increasing the choice for tenants; if he is gouged he can move on. I want to increase his alternatives, have more apartments on the market. Also for extreme, unconscionable rent increases I would have those covered by the Unconscionable Transactions Act and perhaps have a little assistance or greater ease for a tenant to make such an application.

I also maintain that perhaps there wasn't such extreme gouging. The papers really blew it up. They would say some poor old lady has 19 children and her rent has gone up from \$200 to \$300. They never said she had just come off a three-year lease. They never said, "Look what her 19 children have done to the building." I don't think it is all that bad.

I have asked every rent review officer I have met, "Have you ever found any cases of extreme gouging?" And they said, "One or two." But we both agreed that it is not quite as bad as the papers made it out to be. I think one party, the NDP, exploited it. I don't think it was true.

[10:45]

**Mr. Warner:** Quite successfully.

**Mr. Burton:** Yes, quite successfully. But, sir, you're looking at me. Remember me. I give you the profile again. Remember me 10 years from now.

**Mr. Makarchuk:** You two are about the same size.

**Mr. Burton:** Think of the long run. Think of 10 years from now. I maintain you are going to hurt the very people you profess to protect. There won't be alternatives.

**Mr. Warner:** The thing I don't know is your Sarasota address. I think you should leave



that with the committee as well so we can keep in touch with you.

**Mr. Burton:** Visit me any time.

**Mr. Chairman:** Aside from Mr. Makarchuk, there are three other members who wish to speak. If the four questioners could move along as quickly as possible to make the most of our time.

**Mr. Makarchuk:** Mr. Burton, what interest rates do you pay in Sarasota for your money?

**Mr. Burton:** We just took a deal out now; it was 9.5.

**Mr. Makarchuk:** What would you pay in Toronto?

**Mr. Burton:** Depending on the security, and now the bank prime rate has just gone up half a point, 11 or 11.5.

**Mr. Makarchuk:** So you'd say about two percentage points anyway?

**Mr. Burton:** Yes.

**Mr. Makarchuk:** Since the money markets are basically the same since the money travels back and forth—in other words, you could buy a condominium in Florida right now for about 8.5 per cent finance charges or something like that, or at least they were advertised at that; maybe they are nine per cent—we are dealing in the same North American money market, and yet the costs in Canada are at least two or three percentage points more, and on \$10,000 every percentage point would be \$30 more in monthly payments. Why, in your opinion, is that so?

**Mr. Burton:** What do I attribute that to? I suppose in some cases it's the law of supply and demand; it's a great deal easier to get a mortgage in the United States. If you just go down there to buy a condominium unit today, right now the rate is 9.5 per cent. But you can get a 90 per cent mortgage. You can't get a 90 per cent mortgage in Ontario.

**Mr. Makarchuk:** In a comparison of the choices available for finance money, in the United States, as I understand it, there are a lot of choices, compared with Canada, where your choice is limited to about a dozen perhaps and that's it, if that.

**Mr. Burton:** That was. Now the market is very tight.

**Mr. Makarchuk:** In Canada?

**Mr. Burton:** No, in Florida. Five years ago, in cases where we bought new buildings wholesale to convert them, they were easy to find five years ago and the prices were a little bit lower. Now there are no more—

**Mr. Makarchuk:** What would you have paid five years ago for your funds in Florida?

**Mr. Burton:** I would say 8.75 or nine per cent.

**Mr. Makarchuk:** What were the Canadian rates five years ago?

**Mr. Burton:** They fluctuate so rapidly.

**Mr. Makarchuk:** Would you say they would be about two, three or four points higher?

**Mr. Burton:** I think generally through the years they have been two to three points higher in Canada. Of course, another reason perhaps why they are a little more in Canada, I think, is they fluctuate so rapidly. You can look at a site today, do your costing and see what your revenue will be, and by the time you buy a mortgage on it—look what has happened just in the last month; it's changed half a point.

**Mr. Makarchuk:** One of your arguments is that part of the problem is you have to own the land for eight years, which carries the cost and everything else—you have an option, and the option might be expensive for eight years—but could you give me an indication of some community anywhere in Ontario where the period of development between the desire to build and the time you get your plan of subdivision approved, your building permit, et cetera, is not too long and the rents have dropped? In other words, where the carrying charges are not more than a year at the outside?

**Mr. Burton:** I don't know where on earth—are you suggesting that maybe you'll get a plan of subdivision in a year?

**Mr. Makarchuk:** You get it in less than a year, yes.

**Mr. Burton:** Boy, I'd love to find that.

**Mr. Makarchuk:** I see. Okay—

**Mr. Burton:** We've done a lot of work in Pickering, Brampton, Orangeville, London, and five years has been the least in my experience. That's for a subdivision; that's not like buying—

**Mr. Makarchuk:** I'll argue that point because I have evidence—

**Mr. Burton:** It's not like buying three or four empty lots on a piece of land that is already subdivided.

**Mr. Makarchuk:** In fact, what you are saying is that if you were allowed to build, you would be able to build a townhouse at about \$45,000 a unit.

**Mr. Burton:** Absolutely.

**Mr. Makarchuk:** I can tell you that I can build a townhouse, if I were allowed to do what I was going to do, at \$16,000 a unit;



and that takes in the land cost, the development cost and the cost of building it. Obviously there's a lot of room to play around in.

**Mr. Burton:** I'm saying in the Toronto area, the immediate Toronto area.

**Mr. Makarchuk:** The immediate Toronto area. Have you looked at the land holdings in the Toronto area as to who holds it, how many firms are involved and how long they have held it?

**Mr. Burton:** Yes.

**Mr. Makarchuk:** How many firms do you think have the majority possession of the land in the Metro Toronto and Mississauga areas?

**Mr. Burton:** I suppose you are suggesting that there are very few people who are controlling—

**Mr. Makarchuk:** Yes, I would suggest extremely few. Have you heard of the Spurr report?

**Mr. Burton:** No, sir.

**Mr. Makarchuk:** You've heard of Gunnar Myrdal.

**Mr. Burton:** Yes, sir.

**Mr. Makarchuk:** Milton Friedman, incidentally, isn't a socialist economist.

**Mr. Burton:** No, no. I certainly didn't refer to Mr. Friedman as being a social economist. Gentlemen, I'll give you copies of his book.

**An hon. member:** It's a good book, actually.

**Mr. Samis:** I have many questions, Mr. Chairman, but I'll confine myself to one. Mr. Burton, you seem to refer to rent review as an equivalent of the neutron bomb in the housing market. This little report from Larry Grossman may be something you're familiar with—

**Mr. Burton:** No, I didn't only say rent review; I said all sorts of government legislation—municipal also.

**Mr. Samis:** You are not one of these free enterprisers who are against quotas, tariffs, subsidies, tax credits, tax incentives?

**Mr. Burton:** To a good extent; not all the way. I certainly wouldn't call myself a total libertarian.

**Mr. Samis:** Okay. There was one thing I wanted to bring out—and for my friend Mr. Hall it's table 7.

**Mr. Hall:** Terrific.

**Mr. Samis:** I was just looking at the average increases here. They've got it broken down for the Toronto area. They go from single-family unit, duplex, triplex, four to six, non-elevator, apartment elevator—I would just read out these figures for you, the actual in-

creases granted: 17.9, 17.5, 16.5, 19.0, 13.6, 11.2, 27.5, 15.0, for an average increase of 11.8.

**Mr. Burton:** And I said substantially that.

**Mr. Samis:** Doesn't it strike you as totally endangering the private sector in the housing market when you hear percentages like that under a rent review system?

**Mr. Burton:** Yes. I think when you examine the cost—and I did give you some figures that have just skyrocketed—

**Mr. Samis:** But we are also talking about 1977 when the inflation rate was around eight per cent.

**Mr. Burton:** These are only the people who have come to rent review. I have given you figures from Statistics Canada just for the Toronto area, because we are still talking about oranges and oranges, that give a figure a great deal less. This has to indicate that a lot of people don't want to come to rent review. I don't go to rent review any more. I find the rent review personnel give decisions that are totally outside the law.

**Mr. Samis:** Obviously that's your own opinion.

**Mr. Burton:** No, it's not only my opinion. I made a complaint about one hearing to the Ombudsman. The Ombudsman investigated and found indeed legitimate costs were arbitrarily disallowed.

**Mr. Samis:** My basic point is you seem to regard it as totally unrealistic or unrealizable to have some form of rent review and yet have a realistic return on investment for landlords or people like yourself.

**Mr. Burton:** I suppose there is some sort of a gap in between what a tenant believes is a realistic rent and what a landlord wants as a fair return. And then we've got to bring the two a little closer and I maintain you bring them to a meeting point without the government. Let the market determine it.

**Mr. Samis:** You don't see any other alternative beyond that laissez faire approach?

**Mr. Burton:** No, sir.

**Mr. Hall:** We are trying as a committee to look down the road, Mr. Burton, to a more permanent arrangement than has been in place under difficult conditions in the last three years. You've touched on alternatives. The main stress of the dialogue with most people who presented briefs is the discussion on rent control itself, the need for continuity, or the other side of the coin, what a bad thing it is.

I'd like to hear you explore a little more constructive ideas for change. You mention

them in brief paragraphs here, but could you expand at all on the subject of incentive taxation? It's been my understanding that in the period from 1972 to 1974 there were certain changes made in different tax laws, federally and provincially, which worked to reduce the attractiveness of this form of investment. I'd like to get your view as to whether this was a serious reduction, an unreasonable reduction that took place and whether that should, in the wisdom of the governments of today, be turned around for the benefit of both landlord and tenants and the freedom of choice and lower costs.

**Mr. Burton:** I'm not very familiar with federal taxation. Two things are bothering us right now. One was the non-deductibility of interest on vacant land. The other one is that you can no longer pool apartments for depreciation purposes and write one off against the other if the value is more than something like \$50,000. It's a good thing and traditionally you do like to set profits off against loss.

What's very disturbing now for even holding an apartment building are the municipal restrictions. We have a building in Scarborough that is 33 years old and has 143 suites. The fire department has come to us with requests that we have tendered out and came to \$133,000! A hundred and forty-three suites can't support that money. To tell you the truth, if I had just bought the building, or the building were mortgaged to 90 per cent or 95 per cent or something, I'd run away.

**Mr. Hall:** Is your recommended solution many more units?

**An hon. member:** As in Scarborough?

**Mr. Hall:** Basically, your recommended solution to this problem is the creation of a lot more units. Is this your—

**Mr. Burton:** Yes.

**Mr. Hall:** So how do you address yourself to the creation of a lot more units?

**Mr. Burton:** Easing of government control at all levels, and encouraging landlords instead of discouraging them. It's downright penalizing now.

**Mr. Hall:** Yes, but you're making rather general statements when you say that, Mr. Burton.

**Mr. Burton:** I'll set them out. Allow them to deduct the interest on vacant land. Stop this pooling of apartment houses, that's for the interest. Easy convertibility of existing older buildings in a municipality. You know, if you want to do major renovations to an existing building, the municipality usually

requires you to bring that entire building up to current standards. The cost is too high; you don't want to do it. You don't want any conversions; nobody wants an apartment building in his neighbourhood. You're met with very strong ratepayers' groups.

**Mr. Hall:** That may be, but if that is the feelings of people in the community you're not necessarily going to change that overnight, so it's not a very practical solution that this committee faces. We're going to continue to have zoning bylaws and we're going to continue to have public input when things are changed. So that doesn't give us an answer, does it?

**Mr. Burton:** I realize the neighbourhood won't be more receptive and I suppose it is reasonable; nobody wants an apartment building in his neighbourhood. Perhaps the municipal politician has to care a little bit less about maintaining his popularity in the area and say, "Well boys, we need housing."

[11:00]

**Mr. Hall:** Do you think the changes related to the use of foreign investment in Canada, that were on for a period of time in Ontario and have now been taken off, are acting as an incentive? Is more money coming in from abroad, despite the fact that the Canadian dollar has dropped off?

**Mr. Burton:** Yes, I think that's good.

**Mr. Hall:** Have you got any indication as an individual or has the association that you might be tied into as a member, whether this is an important change that has taken place?

**Mr. Burton:** I think it's good to encourage investment.

**Mr. Hall:** By the same token, would you say that what was done before was a dumb move?

**Mr. Burton:** Yes, sir. I think it is good to encourage people to invest. The old phrase, foreigners are taking Canada home in box-cars, is a fallacy. In the process they've created many jobs. You get the multiplier effect working. Not only will you buy Canadian cement and Canadian stone but you will get a Canadian truck driver working and so on.

**Mr. Hall:** Mr. Burton, you're still doing some building, are you?

**Mr. Burton:** Not very much in Ontario or Canada.

**Mr. Hall:** Would you feel if there were no rent control that the factors that existed in the period 1973-74, which seemed to create a shortage in the market because people weren't building enough, would change



around now if there were no rent control in Ontario and, if so, why?

**Mr. Burton:** I would build apartment houses today if there were no rent control and if other legislation, municipal and federal, were also eased. I don't think you can take rent control only and say that that's the only reason.

**Mr. Hall:** What particular things in your general mind would you be most likely to build? Would it still be highrise or what?

**Mr. Burton:** Highrise with increased density. The density now for the price of land is too low. Unit cost per acre of \$4,000 or \$5,000 is fairly common now.

**Mr. Hall:** You're not into condominiums at all?

**Mr. Burton:** Yes. We built two very large co-operative projects. One was brand new and one was a conversion.

**Mr. Chairman:** Mr. Kennedy, and then I think we should move on to the next witness.

**Mr. Kennedy:** I have two quick comments. We had one group the other night advocating a standard lease for all tenants. Their other suggestion was that renewals be geared to one day per year. I just wondered if I might have your comments on those nuts and bolts.

**Mr. Burton:** I was going to address the committee at a later date on my suggestions on landlord and tenant. What I believe the committee did want to do was to have one day on rent review and the other day on landlord and tenant. I still have a great deal more homework to do on that. However, I did read the proposals on changes in the Landlord and Tenant Act with the standard form of lease.

**Mr. Kennedy:** Would you have any comment one way or the other?

**Mr. Burton:** The standard form of lease which they had suggested is pretty much what we're using now. I wouldn't like to have one expiry date per year. Boy, can you imagine the havoc? You won't be able to get a mover or rent a truck. You could have everybody coming in and going out of the building the same day. I think you'd have total chaos.

**Mr. Kennedy:** It would be a national day, wouldn't it? That's all. I just wanted to get comments on that.

**Mr. Makarchuk:** You say you would build if there were no controls. You're aware of the fact that there are no controls on new buildings right now?

**Mr. Burton:** Oh, no. I don't agree with you at all, not for a moment. Perhaps in the act there aren't, but there sure are indirectly.

**Mr. Makarchuk:** In terms of rent controls, there's nothing really right at this time.

**Mr. Burton:** As far as the act is concerned, sure, but you're indirectly controlled. You can't charge whatever you want when the guy across the street is controlled.

**Mr. Makarchuk:** In effect, what you're saying is that you would build, provided you could charge whatever you wanted, whatever the conditions.

**Mr. Burton:** No. Then the other units would also have to be controlled. How can you be on the north side of the street charging what you want when the guy on the south side is controlled? There's indirect control.

**Mr. Makarchuk:** You keep driving at the fact that it's the government restrictions that delay the cost and, therefore, that's the problem.

**Mr. Burton:** Yes.

**Mr. Makarchuk:** There are communities where the builder can go and pick up a building permit for 1,000 or 2,000 units tomorrow. They're not building and the rents are not going down. Could you tell me why this situation exists?

**Mr. Burton:** I sure don't know of a community like that.

**Mr. Makarchuk:** I can give you Guelph, Brantford, Cambridge and the Niagara region.

**Mr. Burton:** We are working in the Brantford area. Perhaps there may be some market restrictions in those areas.

**Mr. Makarchuk:** What market restrictions are there?

**Mr. Burton:** In those areas, there are high vacancy rates. Also, I think you have the attraction in the Toronto market. We have buildings in the Bayview-Sheppard area and you can get from me a two-bedroom there for \$215. It is a very nice building with pools, saunas and everything.

**Mr. Makarchuk:** Your allegation is that there may be certain areas with restrictions because of zoning, neighbours et cetera. There is no argument about that. That happens and we can understand that. There are other areas in Ontario where this situation does not exist. You still have no construction going on and you do not have the lowering of rents. These are areas where the developer does not have to carry the land for any period of time and he doesn't lower the rents. Can you tell me why that is in existence?

**Mr. Burton:** I can't agree with you for a moment that you can go anywhere and pick up 2,000 units and build them.



**Mr. Makarchuk:** I can give you figures and statistics where there are 3,000, 5,000 or 8,000 units available and you are not building. Brantford is a good example.

**Mr. Breithaupt:** If there aren't jobs there for the people to go to, it is obvious that construction would not occur.

**Mr. Makarchuk:** The point I want to make is that that is the story of the UDI and that's the story of yourself. You're saying if you didn't have these government restrictions and if they allowed you to have unlimited freedom to build where you want and whenever you want the type of building you want—and to hell with the sideyards, setbacks, densities and everything else—then you are going to cut rents. That's a lot of nonsense. I think it is about time we threw that canard out the window.

That is not the situation. The problem is that you have developers who control 70, 80 and 90 per cent of the land in the area. They put so much land on the market, they have a nice cash flow and they keep the thing going.

**Mr. Burton:** I think there are figures in the green paper that say that something like 30 or 40 per cent of landlords earn less than \$13,000 a year.

**Mr. Makarchuk:** We're not dealing with them. I'm not talking about them. I am talking about the major developer.

**Mr. Burton:** Oh, I don't think so.

**Mr. Makarchuk:** We have figures from UDI to disprove their own figures.

**Mr. Burton:** You are saying that the land is controlled about 90 per cent by the big guys.

**Mr. Makarchuk:** Take a look at this Spurr report, the CMHC study on who controls the land in the Toronto area.

**Mr. Burton:** No, I haven't. Does it say 90 per cent?

**Mr. Makarchuk:** I think it is more than 90 per cent.

**Mr. Chairman:** Do you have any more questions? Could you make it one and do it fast? We're a bit late.

**Mr. Warner:** I am always trying to help. I would like to know where that building is that you spoke about in Scarborough.

**Mr. Burton:** In Scarborough, 3015 Queen Street East, right next to the water purification plant. It is a cluster of eight buildings. The fire department assessed us for \$135,000.

**Mr. Warner:** You felt you shouldn't fix the building up. I didn't understand what the concern was.

**Mr. Burton:** I don't know where the dough is going to come from. Even if I go to the bank to borrow that dough, rent review won't allow the interest as a legitimate cost passthrough item.

**Mr. Warner:** The interest on the money? You won't put that forward as a suggestion in improving the rent review act, that the interest be allowed as a passthrough cost for renovations determined by the fire marshal.

**Mr. Burton:** Of course. I can't do the work. It's going to be cheaper to get fined.

**Mr. Warner:** Perhaps you could forward that as a suggestion to the committee.

**Mr. Burton:** It is in the printed material.

**Mr. Chairman:** Mr. Burton, thank you very much. I have one comment, if I may, not for you, Mr. Burton, but for Mr. Makarchuk, myself and others. I think there has been some mythology about the percentage of land held by large developers. I say this with respect that there was a study that was prepared for the Bryce commission on the concentration of corporate power in Canada. I think the largest Canadian developer, Cadillac-Fairview, was a veritable peanut in the context of Canadian land holdings. It was a peanut compared to the various levels of government and land they hold, the Ford Motor Company, General Motors and so forth.

**Mr. Makarchuk:** The committee on nationalism or whatever it is had all sorts of difficulty trying to obtain the figures. They just couldn't get those studies. The only thing that is available now is the Spurr report.

**Mr. Hall:** Mr. Chairman, I think this is a valid area of discussion and I would suggest we ask our consultant to produce objective information as to exactly where this land is held and what the effect is. There are studies on the market. I enjoy Mr. Makarchuk's style at times. I think we could shorten the process by getting the facts from our consultant which is what we have him here for anyway. Thank you.

**Mr. Chairman:** That's a good point. If I may call upon Mr. Gathercole, who has a brief, a lengthy one.

**Mr. Gathercole:** Mr. Chairman and gentlemen. The actual brief will be presented by Brian McKenna, one of the students in the program, and Miss Margaret-Ann Wilkinson and Mr. Dennis Kaye are also available to answer questions on specific aspects of the brief.

**Mr. McKenna:** My name is Brian McKenna. I am one of a number of law students in the University of Toronto clinic program who

prepared this brief. I don't know if you all have a copy of the brief.

**Clerk of the Committee:** It was given to the committee on April 26.

**Mr. McKenna:** It is fairly complex and we weren't structured to present a formal presentation this morning, so what I will try to do is briefly go through the salient points and then maybe we can have the rest of the members of the clinic program join us for questions and answers.

I will give you a little background on the clinic program. The students who worked on the program worked extensively in clinics comprising the Toronto Community Legal Assistance Services. The TCLAS operates over a dozen clinics in the core of Toronto. The students working there do a great deal of landlord and tenant work. Our guidelines are such that the vast majority of our clients have incomes of less than \$9,000 a year; so, basically, we are dealing with those kinds of tenants who have affordability problems, as outlined in the government's green paper.

It is fair to say that our proposal recognizes that there are equities on both sides of the equation, that there are equities on the side of the landlord and equities on the side of the tenant. What our proposal tries to do is balance those equities at a fair level. If you have a copy of the proposal, you may want to look at the index on the front page. I will just step through some of the points.

Our proposal indicates that we feel the equities in this equation can be balanced best by a number of changes in the system. The first major change is in the delivery of services. Given our experience working in clinics, it becomes fairly obvious to us that whatever the solution is, the delivery of it is most important.

If you look at section B1 of the index, you see that we make extensive proposals in the area of landlord and tenant tribunal which should not only include landlord and tenant relations but also include rent review.

In section B2, we make extensive proposals on information dissemination. I understand we are going to get into those at a subsequent meeting of this committee.

In section B3, probably the area that concerns us today, we consider the system is best balanced by rent control based upon a fair rate of return to the landlord, not the sort of rent-freeze type of system we have right now. There should be—must be—some form of rent control and it must continue.

Finally, we feel that for those tenants who are particularly concerned, there must be some sort of subsidy program for those 25.9

per cent of tenants in Ontario who have affordability problems. I think that in the long term that must be some sort of coherent housing policy. In the short term, we feel there has to be some sort of direct financial subsidy.

I want to point you to a couple of areas in the proposal that we feel are very important. Section B5 of the proposal starts on page 26. I won't be able to get into any detail now, but that is a fairly extensive analysis of the economic situation that has led us to believe two major things. First, that landlords can get a reasonable rate of return out of their investment and second, that rent control is not, in fact, the cause of the housing shortage. We don't go along with that argument at all and we think there is information to support our argument.

[11:15]

If you also look at section B8, there is a detailed analysis of what we feel would be a fair rate of return. We feel the landlords could be charging a rent that is less than that which the green paper specifies in table 13 as being necessary, and probably less than the current market rent.

I'll just skim over some of our major recommendations in all of those three areas and then perhaps I'll go over the rate of return proposal in a little more detail. Then we can open it to questions and answer. There is a good introduction in section A on page one just covering the basic outline of the proposal.

As I said before, we are proposing first of all that there be a board created, called the Landlord and Tenant Relations Board, and that it have powers of adjudication in both landlord and tenant disputes and also over rent.

Second, that distribution of the information to tenants be comprehensive and mandatory and that further resources to assist both landlords and tenants be readily available;

Third, that a system of rent control rather than a rent stabilization that is presently in force be implemented in Ontario, and that the system incorporate long-term commitment, universality, averaging of costs, equity amongst units in a building and a fair rate of return to the landlords;

Fourth, that there must be some sort of subsidy program put in place for those tenants presently having affordability problems. The long-term solution, as I say, is some sort of coherent housing policy for them. In the meantime, something must be done for these people.

Finally, the proposal talks about changes in the substantive law of landlords and tenants.



One point on dissemination of information on page 14, at the bottom of the page: We propose that there must be a central registry of rents created so that there is a cumulative history of rents on each of the buildings. We feel that's essential because it allows for information dissemination; it allows people to go and find out what the rents are in the building so that they can see whether there has or has not been a hike in the rents of the building. Also, I suggest, it would permit audits on unconscionable rent increases. If you have some sort of computer accessible rent registry then you can tell those areas or those buildings where the rent has jumped unconscionably. There are suggestions in there for where this information should come from but I don't think I should get into those matters.

We can talk a bit—page 16—on the basics of the topic that concerns us now which is rent control based on rate of return. As I say, we propose a change from the present rent stabilization scheme to a scheme of rent control where rate of return control is the most equitable of the options available.

That, basically, says that the landlord should not have to subsidize the tenant; that's not his problem, that's a basic societal problem. But on the other hand, the landlord should not be permitted to charge what the market can bear because there are people caught in a squeeze; they just can't afford that type of burden. We're suggesting that the landlord be able to make a rate of return on his investment and that it be a fair and controlled rate of return.

We suggest that there has to be some mid-term or long-term commitment to rent control. It's only that type of situation that's going to stabilize the market conditions. We suggest that the private sector, if it knows what it is dealing with, can deal with it. Surely, part of the upset and problem are associated with ad hoc kind of reactions to cycles in inflation.

It should be remembered that the rent review was initiated in Ontario in response to inflationary psychology and it was instituted in conjunction with wage and price controls in order that there be some breathing space until there could be some significant changes in the structure of the economy. This really hasn't occurred so we suggest that if you take off rent controls, we are going to be back into exactly the same kind of situation we were prior to rent control.

We argue that rent control should apply to all buildings and there should be no exemption for buildings less than five years old. There's no reason why tenants in a particular uncontrolled building should have to pay

higher rents. If the system is fair, if it provides a fair rate of return, then it should apply to all buildings. If it's necessary to provide incentive for housing starts, then the mechanism for doing that should be some mechanism other than exempting buildings from rent control.

We suggest that costs should be averaged rather than specific for we know of instances where under the present system of rent review, rents have been increased in anticipation of specific costs to the landlords and then those costs have not materialized. Landlords have got increases in rent, for example, for new broadloom which was subsequently never put in. So we suggest that the system should have average kinds of costs and over the long run that will be fair. There's a number of advantages to having average kinds of costs and it makes the administration of the system a lot simpler.

There must be equity among units in a building. There's no real reason now why a two-bedroom apartment on one floor is more or less expensive than a two-bedroom apartment on another floor, so if you have rent control, it should apply to all the units in a building and all units of equivalent value should be paying the same rent.

Finally, there should be a fair rate of return, a rate of return predicated on the landlord's market equity that encourages investment in the property but does not permit some unconscionable rate of return for the landlord at the expense of tenants who have no choice. The majority of tenants who rent have to rent and they should be protected, not at the expense of having the landlord underwrite losses, but they should be protected.

This is only a brief overview and perhaps maybe we should get to questions. The final point is that there must be supplements instituted for those tenants at present having affordability problems.

**Mr. Chairman:** There are a couple of questions. Mr. Hall and Mr. Makarchuk.

**Mr. McKenna:** Maybe you should have the rest of the group join me now or would that be appropriate? I don't know how we will arrange that.

**Mr. Chairman:** On page 24—and I have not had a chance to read the whole of the study, I will—on page 24 at the top, the paragraph beginning: "Bearing in mind that the rental market is a captive one and considering the present scarcity of units, a rate of return pegged to the prevailing mortgage rate seems to be more than adequate." A two-part question comes out of that. Given the fact that there are often quarterly changes in the



mortgage rate, small changes perhaps, how would you see adjusting for that?

**Mr. McKenna:** I wouldn't see it being worthwhile to adjust it on that but probably on a yearly basis. We are suggesting elsewhere in the proposal that the rents only be reviewed once a year and I guess at that point it could be pegged at whatever the rate was at that time.

**Mr. Chairman:** Fine. In that same sentence, a comment—and my mind is going back to something Mr. Burton said and I was quite intrigued with, his comments about how unreliable vacancy rate statistics might be—you make reference there to “the present scarcity of units.” Perhaps in your brief you do comment on the adequacy of vacancy rate numbers. If you do, could you comment on that now in light of what Mr. Burton said earlier? He said they were not very reliable.

**Mr. McKenna:** Probably that's more in Mr. Kaye's area than in mine.

**Mr. Chairman:** I mentioned that because increasingly on this topic vacancy rate becomes, for some, a fairly important yardstick. If the material gathering process gives you a lousy yardstick then maybe we shouldn't make too much of it.

**Mr. McKenna:** I'll just make one general comment. If, in a particular area the average is right, then that's the average that should be built into a rate of return control; if the particular landlord has a higher vacancy rate within a regional area then it probably indicates that the building is unattractive.

**Mr. Kaye:** As to the reliability of the vacancy statistics, I don't think we can make very many useful comments other than to say if they are unreliable we can only assume that they are just as unreliable as in any particular year and in various geographic areas and, therefore, when they're used as a basis of comparison they're perfectly acceptable.

We have commented on the vacancy rates—as you mentioned, there are several bottom lines to this problem—and we've provided a more complete chart than is provided in the green paper. An examination of that chart shows that, looking at vacancy rates, if we assume a low vacancy rate indicates there is a problem in the market, there are comparatively no problems right now. There is not much more that can be said. There have been times when vacancy rates were much lower before rent review in various cities and there are cities where the vacancy rate is higher now than it was before rent review. Those are only very general comments.

I would also like to point out that when vacancy rates are very low that, of course,

represents an increase in the revenue coming to the landlord and a very marked increase. If the landlord is making 10 per cent cash flow on his investment and he has 100 units, a change from three per cent vacancy rate to two per cent equals a 20 per cent increase in his net revenue and not a two per cent increase. That's something which is rarely mentioned by people who are espousing the landlord side of this problem.

**Mr. Hall:** Mr. Chairman, I have a couple of general questions. I would like to find out from each group that comes along just exactly who they are. You say that you represent the clinic program of the University of Toronto's faculty of law?

**Mr. Kaye:** That's right, sir.

**Mr. Hall:** This brief is then prepared by law students?

**Mr. Kaye:** Yes, it is.

**Mr. Hall:** Is it a part of your course credits?

**Mr. Kaye:** That's right.

**Mr. Hall:** Then you say it's an affiliation with the Toronto Community Legal Assistance Service. What is that?

**Mr. Kaye:** Until a few months ago it was a student legal aid society which was operated under the Legal Aid Act. The Legal Aid Act makes possible the creation of a legal aid society by every law school in the province, the head of which is the dean of a law school and there are provisions for advisers, et cetera.

Recently, we converted our student legal aid society into a community legal services group but, basically, it still remains staffed by students although we have more community representatives on our board of directors now.

**Mr. Hall:** Is it funded under the provincial legal aid program?

**Mr. Kaye:** Partially.

**Mr. Hall:** To what extent?

**Mr. Kaye:** I don't have the exact figures. I'm not on the executive of the legal aid society.

**Mr. Hall:** Is there group funding as well as individual funding? Individual funding, as I understand it, has to be on proof of case of need. In any one building I can understand that some people would have low incomes but other people would not have low incomes. How do you obtain the funds to represent these people?

**Mr. Kaye:** We only represent people who fulfil very strictly income guidelines. I think it was pointed out in the first page or two

of our brief that for a single person this is less than \$9,000, and it's adjusted according to the number of dependants. Naturally, there's a problem there. If a group of tenants walked into one of our clinics and wanted us to represent them in a rent review hearing and seven of them met our guidelines and one was a little bit over we might be inclined to overlook that. On the other hand, if a group of tenants from a very prosperous neighbourhood walked in we would tell them they would have to hire a lawyer.

**Mr. Hall:** Is there group funding for a legal aid program in a community aside from individual funding? I want to understand the legal aid program as it affects what you're doing.

[11:30]

**Mr. Kaye:** I'm not exactly sure what you mean by group funding as opposed to individual. Do you mean legal aid certificates? Is that what you mean?

**Mr. Hall:** The gentleman behind you is shaking his head in an affirmative way.

**Mr. McKenna:** I think the answer to that is yes. You talked about the normal legal aid where an individual goes down to the legal aid office to get a certificate.

**Mr. Hall:** He has to prove hardship before he can get that legal aid.

**Mr. McKenna:** That's right. In addition to that, I believe there is some group funding of clinics that serve the same purpose or the same kind of clientele.

**Mr. Kaye:** I think I can probably help you with the finances. Most of our funding comes from the clinical funding committee of the Law Society of Upper Canada under the Ontario Legal Aid Plan. Some additional funding comes from sources like the student administrative council at the University of Toronto and from the faculty of law, in the sense that I supervise the general TCLAS program, as well as teach the clinic program, and I'm a fulltime faculty member at the U of T. But essentially we are funded in the same way as most legal aid clinics operating in Ontario—that is, outside the fee-for-service plan, like Parkdale Community Legal Services, Neighbourhood Legal Services, Legal Assistance of Windsor, University Legal Clinic in London. We're all funded that way, so it's primarily by legal aid.

**Mr. Hall:** Fine, thank you very much. Obviously, your brief is comprehensive. I haven't had the opportunity to read it yet but I hope I will have the chance to do so

in the next couple of days. But in some of your summary comments, you said, I believe, that obviously, in certain sections of the rental market, the government will have to supplement income to make these rental statements. We're here as a committee trying to address ourselves to the solution of a problem and part of the solution is to find out where the hell the money is going to come from. We now have a deficit in this province and in our federal government that's substantial. It's a difficult thing and it disturbs me, because I just can't handle it very easily when I'm told that the answer would be to have more money, because that would seem to be the answer to many problems. How do you explain this to me? Can you help me with that?

**Mr. McKenna:** Yes. First of all I guess it's the general equities of the problem—that is, regardless of what it costs, if old age pensioners must first pay their rent and later deal with a deficient diet or live off a loaf of bread at the end of the month or eat dog food, something has to be done about that, regardless of the costs. It's a question of priorities.

But the second thing is that if you look at our analysis in section five and you look at our analysis in section B8, we are arguing that if you institute a rate of return control system—that is, a fair rate of return control system—you can have rents that are considerably less than they are now. If that's the case, then it seems to me that in that equation of tenant affordability problems, if you have lower rents in general that are fair to landlords, then you're going to have fewer people that you have to subsidize. That's why we say that a rate of rent control must be instituted in conjunction with a subsidy to those people who have affordability problems.

**Mr. Hall:** In your studies on this whole matter, which obviously are thorough and are, I would assume, going to be an ongoing part of the university's program, have you developed a profile as to where the average person in different income brackets spends his money? Because what is affordability? Is affordability not being able to afford a high-priced apartment building, but still wanting to have the option to drive a certain kind of vehicle or own a certain quality of tape deck and so on and so forth? I'm not casting any aspersions and I don't want this committee to think that for one minute—especially you, Mr. Warner. I want to get at the facts of the matter here. I'm wondering if your committee in your inten-



sive studies has come up with a profile of what Mr. Average Tenant does spend his money on.

**Mr. Makarchuk:** Would you say they shouldn't have colour television sets?

**Mr. Hall:** No, it's not a matter of that at all and you're distorting the argument, I'm afraid.

**Mr. Makarchuk:** No, I'm not.

**Mr. Hall:** If we want to get down to the facts of the matter, I think we have to look at this.

**Mr. Breithaupt:** Yes, indeed we must.

**Mr. Warner:** You mean the percentage of income spent on rent?

**Mr. Hall:** Affordability—and I'm talking to Mr. McKenna right now—is a matter of loose terminology and I'm asking you—have you defined it?

**Mr. McKenna:** The government's green paper defined it as being those who spend, I think, 25 per cent or more of gross income on rent.

**Mr. Hall:** I heard that from my dad, about when he got married in 1915. In those days you spent one week's pay out of the month on the month's rent, and that seems to be the same yardstick we've used ever since. I'm wondering what facts there are now on the subject.

**Mr. Samis:** If you guys worked from a balanced budget—

**Mr. Hall:** A balanced budget? Well, one of the problems is that part of this recommendation is that from some place must come money to supplement this picture. It is something I have trouble with.

**Mr. McKenna:** We don't have the kind of funding to do that sort of thing but, in general, the green paper talks about affordability and however it's defined there are obviously people who have to spend money on rent that's not discretionary, that has a serious impact on the rest of their budget.

**Mr. Hall:** I couldn't agree with you more, but I just want to understand what that area and what that amount is. It's different, as you can appreciate, in the city of Toronto from in a small town where I come from; where, I assure you, a lot of things cost more money than they do in TO. So within the same framework of income, people are facing different priorities in their spending, and I'm wrestling with this question of what is true affordability.

**Mr. McKenna:** We don't have the kinds of resources to deal with that sort of prob-

lem. I think it's obvious that there are people who are seriously hurt. There are people who have lots of discretionary dollars. Where the threshold is, I can't answer that for you.

**Mr. Breithaupt:** Would you know of any group or study that would have any up-to-date thoughts on the affordability themes and the needs in the downtown Toronto area?

**Mr. McClellan:** Social Planning Council of Metropolitan Toronto budget guide.

**Mr. Breithaupt:** Let's get that.

**Mr. McKenna:** Perhaps I could use the administrative approach here. Margaret-Ann could answer questions on the structure of the tribunals and information dissemination, and Dennis has dealt primarily with the background and the general data and the analysis of the environment. I've dealt more with the positive aspects of the proposal. So, possibly, to keep us from hopping up and down here, if you could structure your questions into those three groups maybe one person could get up and deal with them all at once.

I'm sorry, the answer to Mr. Breithaupt's questions is no, I don't.

**Mr. Chairman:** We have three more questioners and, again, if I may, I suggest we push on, in deference to the witnesses who are waiting and with the clock problem—Doug Kennedy, David Rotenberg and then David Warner.

**Mr. Kennedy:** On page 20 of the brief, you mention that if we simply abandoned rent review, you anticipate we'd be quickly back to the situation prior to the imposition. But on page 19 there's an interesting sentence: "We've concluded from our study of the present situation that rent review has not caused the housing shortage in Ontario and is not, indeed, contributing significantly." Maybe I misread those two, but it seems to have a bit of a contradiction. I've heard from landlords over the years, as I guess we all have: "Get out of rent review. It's causing us problems. It's trying to cure a problem, but in fact is aggravating it." So you have detailed—"See part five of our brief," which I haven't had an opportunity to follow-through on, but could you comment on what appears to be something of a contradiction here?

**Mr. McKenna:** Between the landlords' view and our view of what causes the rent problem?

**Mr. Kennedy:** The fact that you acknowledge markets on page 20 as being a very valid factor and then on the other page indicate



that rent review hasn't been significant in creating the difficulties we find.

**Mr. Kaye:** Well, actually I don't think there's that much of a contradiction. When we refer to the situation before rent review was implemented, what we mean was the situation in which a landlord could charge whatever rent the market would bear; and in some situations unconscionable rent increases were being demanded and received. When we talk about the fact that rent review has not had a change on the housing market, what we mean is that we do not believe the imposition of rent review has in fact caused any appreciable diminishing of the landlord's ability to bring new units on to the market, and the fact that in fact fewer units are being brought into the market is caused by other economic factors and other statutory factors—the changes in income tax regulations; mortgage rates, very important; the fact that a lot of foreign investors have left the Ontario scene; et cetera, et cetera. So I really don't think there's this contradiction although it does seem to be so on the face of it.

**Mr. Kennedy:** But you just mentioned that it has not even contributed significantly, the rent review. Do you downgrade it to that degree, the impact of rent review on production of units?

**Mr. Kaye:** Yes, we don't believe that rent review has any significant effect on the production of units. There's an analysis of some of these factors later on in the brief, starting at page 26. On page 27, rather, we point out that a decrease in the number of units produced started before rent review was implemented but it was consistent with a large increase in the mortgage rate. Of course I think it's trite to say that construction is a cyclical industry and the cycles are entirely consistent with the cycles in the rates of mortgage money.

We are not saying anything very surprising when we say that's what really counts. Later on we point out there are demographic factors which we were not able to completely analyse, we don't have the resources to do that, but we thought they should have been brought out more fully in the green paper. For instance, it appears that the natural increase in population is approaching the negative in this province and landlords are very well aware of that. I did a lot of the research for this in the libraries maintained by real estate associations, and I must say that they are very complete and well stocked libraries and have every statistical type of information that you could want.

I assume they use that information when they are planning. As they say, it takes four or five or maybe more years to bring a building plan into fruition. They naturally look ahead and see what the population is likely to be five years in the future. I don't think they planned in that short term, which other speakers before you have implied, that rent control is brought in and immediately housing starts cease.

**Mr. Kennedy:** So they are looking toward future vacancy rates?

**Mr. Kaye:** Basically, yes; and naturally they have a—

**Mr. Kennedy:** And market.

**Mr. Kaye:** Yes. I am sure they have a hard time calculating that, as we did; but nevertheless that's what they try to do.

**Mr. Kennedy:** We will go on from that as we review it, of course. Thank you.

**Mr. Rotenberg:** I gather the thrust of what you are saying is that the rent should be based on a reasonable rate of return for the landlord, rather than as now with rent control based on what they charged last year plus their increase in cost.

**Mr. Kaye:** That's right.

**Mr. Rotenberg:** That's really your basic thrust. Do you, in that, assume a vacancy rate—I mean if you are going to calculate what the rate of return should be for 1978 or 1979, you must assume an average vacancy rate or a modest vacancy.

**Mr. Kaye:** That's more Brian's area.

**Mr. Rotenberg:** I am sort of leading into something here.

**Mr. McKenna:** The answer is yes; that would be assumed, but on an average basis.

**Mr. Rotenberg:** I gather what you can do in effect is take the speculative aspect out of owning rental property.

**Mr. McKenna:** That's right.

**Mr. Rotenberg:** I can see that might work out for the landlord, like Cadillac or someone who has a long string of apartments and has a few more vacancies here and a few less there, it's not going to affect his return. But what about the person who owns a triplex? You have assumed all this and for some reason he can't rent out the basement, he has six months vacancy in the basement. It would just throw all the calculations out. How do you allow that person, when he finally gets a tenant, to recover that loss he's had because it's been vacant? You are saying on the upward scale, you count out the speculation on the upward scale, but how do

you protect him from the negative speculation, if I may use that term, on the downward scale? I say it only applies to the landlord with very few suites who may have quite a variant in his vacancy rate. Do you follow me?

**Mr. Kaye:** One comment I have to make on that is that the free market, which is suggested as an ideal environment by some speakers, wouldn't have protected him from that.

**Mr. Rotenberg:** Except for this, that with the free market he could make a little more on the up scale to protect him from what he would lose in the down scale. What you are doing is you are not allowing him to take a little more on the up part of the free market, but you are not protecting him from what he might lose on the down part of the free market. Am I correct that that is what you are doing?

[11:45]

**Mr. Kaye:** Yes, it would pose a difficulty for the owner of a triplex; but I don't think it would pose any more difficulty than he would face under the free market. I thought what you were getting at was that the owner of three rental units might be faced with, let's say, long-term vacancies that are completely inconsistent with the generalized trends.

**Mr. Rotenberg:** That's what I am saying; and when that happens, you are not allowing him to protect himself because you don't allow him to make a little more when he had it rented.

**Mr. Kaye:** But if free market conditions prevail, I don't think he would be able to charge more than a market rent when he had all three units rented, not appreciably more, just because he assumed that perhaps a year in the future he would have a unit vacant for six months. His tenants would not be convinced by that argument. They would go across the street and rent a unit for \$10 less from a landlord who assumed his units would always be rented.

**Mr. Rotenberg:** Let's extend that to the broad picture. As someone said, in some of the other cities of Ontario you have a soft market, there is a higher vacancy rate throughout an area than the average, and you have restricted the general renting community to so much rent based on the average rate. The whole city, in effect, has lost money, all the landlords have lost money because of this soft market. When the market gets better again, from the landlord's point of view, would he be able, over a period, to

charge a little more to make up for what he lost?

**Mr. McKenna:** Oh, we have suggested, first of all I think, probably regional vacancy rates, so that if it is different in Windsor than it is in Toronto, that could be incorporated into the rents permitted in Toronto.

**Mr. Rotenberg:** You can set a rate for 1979 and suddenly the market can go soft for some reason in a smaller community; you know, 50 or 100 vacancies can mean three or four per cent in the whole thing, and you have set them for the year.

You have some valid points. I'm interested in your thrust, but what I am saying is you put a cap on the upward mobility of speculation but you haven't protected the landlords on the downward part.

**Mr. Kaye:** Basically, yes, I think we would have to agree with you. We would phrase it differently though. We would say that we would prevent the landlord from taking advantage of scarcities in the market.

**Mr. Rotenberg:** But you are not protecting the landlord on the other scale where there is a glut on the market.

**Mr. McKenna:** It is not a problem now, because there is no glut.

**Mr. Rotenberg:** But we are looking for long-term solutions here, aren't we?

**Mr. Kaye:** I think our answer to that, sir, would be that the theory of entrepreneurial activity implies that profit is a reward for taking a risk. If we remove the risk, of course, there would be no justification for the profit.

**Mr. Rotenberg:** But you are not allowing the profit when there's a tight market, you are not allowing him to take that little extra profit on the tight market to make up for the—

**Mr. Kaye:** Our system would allow them profit at all times.

**Mr. Charlton:** If the vacancy rate is higher this year and the market is good and solid next year, would you allow him the rent increase at the end of the year based on this year's vacancy rate?

**Mr. Rotenberg:** He might make a little more in a tight market and less in a loose market.

**Mr. Epp:** I just want to clarify one point, Mr. Chairman, that this gentleman raised, and that is, it was suggested earlier that the free market would be an ideal situation. I have sat through a number of hearings here and heard landlords and other people. Nobody here has suggested yet that the free



market would be an ideal situation. I am just wondering what kind of data you have to indicate that people are saying the free market would be an ideal situation?

**Mr. Kaye:** The previous witness before your committee handed out a book which has articles written by, I believe, Milton Friedman, who basically upholds that position. I'm not an economist and I'm not entirely conversant with these ideas, but I understand that the school of thought that Mr. Friedman and other authors included in that book represent—I would say some of the more extreme proponents—holds that things like fire service and police should be on a free market basis, which I find a little bit absurd and no doubt you do too.

**Mr. Warner:** Not necessarily.

Interjections.

**Mr. Epp:** There are very good politicians and proponents of the free market system in this province who suggest that maybe some of the fire services should be on a competitive basis and maybe it would be much cheaper for the public to pay for it.

**Mr. Warner:** See what I mean?

**Mr. Kaye:** Historically, of course, fire departments did operate on that basis and it caused tremendous traffic jams.

**Mr. Warner:** Meanwhile the place burned down.

**Mr. Kaye:** When an expensive building burned down, yes, they used to fight each other over who would get to the fire first.

**Mr. Rotenberg:** We could have fire chasers as well as ambulance chasers.

**Mr. Kaye:** Exactly. I didn't mean to imply, and I don't think we in our brief mean to imply anyone is proposing a total return to the free market system. We know that everybody wants the free market to be modified to the extent that is necessary to protect their own interest and landlords are no different than anyone else in this regard. Mr. Burton, for instance, when he was challenged on this, pointed out that he did not want a totally free market. He wasn't very explicit as to what modifications he wanted.

**Mr. Epp:** It is just that I haven't heard anybody suggest that the free market would be an ideal situation. I've heard them suggest it would be preferable to the present system; but nobody yet, to my knowledge, in all my reading and everything else that I have encountered in the last number of years, has ever suggested that the free market is the ideal situation. That's all I am trying to clarify. You said earlier that they had, and I

am just wondering what data you have that I don't have.

**Mr. Kaye:** I have read papers in which people have advocated that. I am not saying that anyone came before this committee and advocated that. But I think there are definitely fringe elements—

**Mr. Epp:** Who've actually said that it would be an ideal situation?

**Mr. Kaye:** It's amazing but true.

**Mr. Epp:** Well, I wish you would send me that information.

**Mr. Kaye:** I could find some material. In the United States there is quite a movement, they don't pay taxes, they don't vote.

**Mr. Warner:** Now that Mr. Epp has finished setting off the fire alarm we can move on. For Mr. Hall's information, in addition to what is outlined on page 25 about the restructuring of the Ontario property tax rebate system as a way to provide the rent supplement, I believe the Ontario government at present has a system of rent supplement which is available to some people and is done on a selective basis. Are you suggesting that you have both things? The Ontario Housing Corporation operates the rent supplement program—

**Mr. Hall:** In conjunction with federal funds.

**Mr. Warner:** Regardless of where the funds come from, I am saying that program is now in existence. Are you talking about having both that program and adjusting the Ontario property tax rebate system—that both should function?

**Mr. McKenna:** Probably not. The basic thrust is not mechanics but the notion that people who have affordability problems should be subsidized. How does that get done? We suggest through the property tax rebate system. I guess if it were an adequate subsidy, there would be no point in having the other one.

**Mr. Warner:** I have a question that, unless I misconstrued, you mentioned earlier about the universality of the program. One of the things that I guess the committee has to come to grips with is how many units in a building should there be before rent controls take effect. Should that be four units, five units, 10—do you have any suggestions from your experience?

**Mr. McKenna:** We suggest it should be all units.

**Mr. Warner:** Does that include rooming houses?

**Mr. McKenna:** I hadn't really thought of the problem of rooming houses. I don't see



why not; but certainly it includes places over stores where the storeowner owns the apartment. Those are areas where we often find the most problems, and people getting exploited. There is no reason to say that because an individual happens to rent in a building of one unit that he should be subject to whatever the landlord should charge and not so in another case.

**Mr. Warner:** I take it from your comments that you feel it makes good sense. And in a building, if you have 100 units, would all of those units be dealt with at the same time on an annual basis?

**Mr. McKenna:** That's right.

**Mr. Warner:** Should that be backed up with annual leases, or should there be flexibility? Should tenants be able to get six-month leases or to live in a building without a lease if that is their choice?

**Mr. McKenna:** I think the answer is yes but I'd better let Margaret-Ann Wilkinson answer that.

**Miss Wilkinson:** We don't really have enough resources for revision of landlord and tenant law. We don't really deal with the length of the lease. But we do propose that rent increases be limited to once a year. We are also suggesting that even in a case where there is no lease agreement there be knowledge on both sides of the provisions of the landlord-tenant laws as they stand now.

**Mr. Warner:** You've had, I gather, some experience in representing tenants at rent review proceedings. Could you in any way generalize on a couple of aspects? One, is it a neutral situation for the tenant, you feel, going into a rent review hearing; and secondly, is the tenant able to present his or her case adequately in terms of whatever prior information is available or should be available? Are they able to represent themselves adequately in the face of the legislation?

**Miss Wilkinson:** I think Mr. Gathercole can best represent our collective experiences.

**Mr. Gathercole:** At the risk of making it seem like a barbershop quartet, I've been at it a bit longer than the students and I am perhaps more experienced than they are. It depends very much on who the rent review officer is. I've had some experiences where I thought the rent review officer handled the thing in such a way that the tenants could be said to have been well looked after. I think that's more the exception than the rule. I think—certainly, tenants do feel—it isn't a totally neutral thing.

For example, I was before the divisional

court on Monday having to bring up a matter from the rent review officer where the landlord appeared at the first hearing with inadequate information, was asked to come back with more information, and finally provided it after a period of time to the tenants. There was a second hearing. The tenants and their representatives who appeared at the first hearing in June were never notified of the second hearing; were never notified that the information had been received by the rent review office; had no opportunity to make any representations on it; and the rent review officer went ahead and set the rent. We had to take it to divisional court and, of course, the divisional court said, fairly quickly, "This is a very clear denial of natural justice" and quashed the order. That happened to be one case in the first year of operation when things were pretty hairy.

I also did the Devitt and Sawchyn case which was the one that established that rent review officers had no jurisdiction to hold hearings when the tenant hadn't received the proper notice under the Landlord and Tenant Act. There seems to be a prevailing approach, at least at the rent review office level, that they're trying to expedite things for landlords. That's a problem.

On the second part of the question about representation. I think it is extremely difficult for tenants to go in on their own. That's why the work of various clinics—and I think, particularly, of some of the work done by the Federation of Metro Tenants' Associations and the Metro Tenants Legal Services in this area—has been very important.

First of all, understanding the legislation is very difficult. I must say with the greatest of respect to legislative counsel and others involved in this, the Rent Review Act is not a very well drafted piece of legislation. Lawyers find it very difficult to understand and tenants don't really know what they have to go through.

Secondly, there is all the regulations. There is all the documentation to go through and you need not only legal assistance but often assistance from accountants or what have you. Without that, one has to rely on the rent review officer being able, first of all, to get the information from the landlord. Secondly, the rent review officer often feels any complaints the tenants make have to do with landlord and tenant and he doesn't want to deal with these. That is why we, along with other tenants' groups, feel very strongly that it's essential that rent control, or any determination of rent by a tribunal be done on a building-by-building basis, on an annual

basis, because that enables the tenants to get together and produce the evidence that they have to gather and get adequate representation.

As you know, lawyers don't generally appear before rent review tribunals. Lawyers can't get legal aid certificates for it so when they do appear they usually do so on the landlord's side. Those are the problems that we've seen. If you look at our brief and how we propose the tribunal should deal with this whole question of rent review, landlord and tenant, and getting information out, one of our attempts is to come up with concepts. We haven't gone into incredible detail in a lot of these things because, quite frankly, we felt we had to comment on the green paper which itself came up with concepts rather than detailed proposals.

The feeling is to try to get a procedure that is fairly simple and very understandable to both landlords and tenants because—another thing I found and the Devitt and Sawchyn case was a clear example of that—small landlords were consistently misled by the rent review office as to what they should do. They were told they didn't have to give the notices. Then, of course, they get to court and they find out that, yes, they did have to give the notices. So it's important that people be made aware of their rights, that the process be fairly simple, and easily understandable to both sides.

Mr. Warner: I appreciate that. I guess then, at the back part, you discussed the idea of the tribunal and the bringing together both the Landlord and Tenant Act and the rent review program, and that would facilitate the whole program.

[12:00]

Mr. Gathercole: I think it was indicated earlier that we have, I believe, a future appointment to come before the committee on the Landlord and Tenant Act. But the experience with rent review has been—and I think, Mr. Robbins has mentioned this a number of times and I presume he mentioned it to the committee—that very often the tenants' complaints at rent review hearings are with the lack of repair, and with various other things that seem to come within the ambit of the Landlord and Tenant Act. The rent review officers take the position that they have no jurisdiction to deal with that, that you have to go to county court to deal with that and you can have that dealt with there. This creates a lot of multiplicity of action. It creates bad feelings between the landlord and the tenant. But if you can go to one tribunal that can deal

with all these matters, I think it would simplify things right across the board.

Mr. Warner: This is my last question. Are you suggesting then that we simply not look at patching up the present rent review legislation but scrap it and start afresh? One of the notions was that maybe we could just patch up the existing legislation and carry on. But do you really think we should scrap it?

Mr. Gathercole: I think Brian mentioned earlier that when one looks at how this legislation came into being, and when one looks at how it was drafted and how it tried to bend with each little requirement here and there and many other things, it really was not, with respect, very well thought out. It doesn't achieve the purposes, from our point of view, for either the landlords or the tenants. As we say in the brief, you can't get rid of it. If you do, we're going to get back to unconscionable rent increases. There has to be a long-term commitment and if there's going to be a long-term commitment then what this committee should do and what the Legislature should do is sit down and say, "Okay, let's get something that's going to work, that really will be comprehensive, that really will give the landlords a fair rate of return, will be fair to landlords and tenants and will be simplified."

In our brief, I think we have a very short paragraph that says, basically, that if you reject that and say that you're just going to tinker with the present legislation, then we endorse all of the proposals made in the brief by the Federation of Metro Tenants' Association. I think a lot of the amendments are pretty obvious. We don't think that is really going to solve anything.

Mr. Warner: Thank you. That's all the questions that I have.

Mr. Rotenberg: Can I just have a brief supplementary on this?

Mr. Chairman: Can I just say this, too, because Mr. Makarchuk is on the list. My mind goes back to last Wednesday. It was my determination to make sure that everybody in the committee gets a fair hearing. I think the only losers are the witnesses who are here. Some of them have been waiting much too long already. We all have the same agenda in front of us. We all know the time. We're well over an hour behind. Obviously I don't want to prevent anybody on the committee from asking questions and, yet, without your help the witnesses are going to continue to be the losers in this. I think we would all agree that's unfair too. So, David, I think if you have a fast one go ahead.



**Mr. Rotenberg:** I think what you're getting at is that the rent review officer himself doesn't seem to want to take any power to investigate a dispute between the landlord and tenant—especially in a mixed-up building—as to the apportionment of water, electricity, hydro and all sorts of things. The rent review process doesn't seem to be able to act on its own or take an issue and investigate it. I think that is somewhere in your brief.

**Mr. Gathercole:** Yes, it is. We talked about the tribunal having the power to do this.

**Mr. Rotenberg:** Get their own experts and make their own decisions?

**Mr. Gathercole:** That's right, and also to do audits from time to time.

**Mr. Rotenberg:** The second thing is that it seems that every rent review hearing must be de novo. In other words, a tenant in apartment 217 established something last week and the tenant in apartment 219 has to come and start one all over again. If we don't get one annual review per building, would you recommend that previous cases be used as evidence in future cases in the same building? How would you get around that?

**Mr. Gathercole:** It's very difficult.

**Mr. Rotenberg:** Particularly when you're apportioning general costs in the building.

**Mr. Gathercole:** The big problem with that is the sort of problem I faced in the case that I did on Monday, and that is that while a lot of the costs are general, one tenant may bring up in his case some question which the landlord answers and then brings up more information, so then the next tenant has more information, and the next one has more information.

It's a pretty fundamental denial of natural justice to give different information to each one of the people if you're dealing with the same sort of thing. In our view, the only way that it will work in practice is in having the one hearing. It also has the advantage of generally equalizing our rents, because it makes no sense on the cost passthrough situation where you have great variations of—

**Mr. Rotenberg:** Doesn't the one hearing maybe deny some tenants the right to have their own hearing if they want it?

**Mr. Gathercole:** You can structure the hearing quite easily so that everybody can raise their own particular things and of course each individual tenant would be able to bring before the tribunal individual problems under the Landlord and Tenant Act.

**Mr. Rotenberg:** Thank you, Mr. Chairman, I think he is on the right track in this particular situation.

**Mr. Makarchuk:** Could we get the might of the majesty of Ontario to get us a couple more tables for the afternoon session, as a start to reasonable conduct of business here?

**Mr. Chairman:** Yes.

**Mr. Makarchuk:** Regarding the legitimate costs of the landlord, his profits and so on—there is a refinancing cost which you have in the first place when a mortgage expires—you have to refinance, which is a normal procedure. Now suppose you have a fair amount of equity in the building and you refinance—do you consider the balance of the money a legitimate passthrough cost or not? How would you handle that?

**Mr. McKenna:** No, we don't consider that to be a legitimate passthrough cost.

**Mr. Makarchuk:** In other words, you suggest the rent review people do not consider that as a legitimate cost.

**Mr. McKenna:** Again, a lot of that material was dealt with in section eight. In that section we're arguing that the rate of return be based on the market value of the building. The ultimate conclusion, I think, is that mortgage costs should not be passed through to the tenant at all.

**Mr. Makarchuk:** You say it is based on the market value of the building, assuming that the market value would remain fairly constant, or would move from year to year? But take the owner of a \$100,000 building, a small building. He has an equity in the building; in other words, his equity in there is probably \$75,000 or \$80,000 or something like that; the refinancing for the new mortgage when the old one expires is probably \$40,000, so he has another \$40,000 he can pocket himself. So he puts on another \$80,000 mortgage. Now, is that additional charge? Should that be applied to the rent?

**Mr. McKenna:** The answer is no. The detail in support of that is in section eight.

**Mr. Makarchuk:** Did you take into account—again, unfortunately, I didn't have a chance to read it—the nature of the way the income was earned in relation to the way it is treated by the income tax department? Was that a consideration—the fact that a certain portion of that income, at least five per cent or probably more if you're careful—is not taxable? Wasn't that an item for consideration?

**Mr. McKenna:** We didn't deal with tax considerations in general; that was one of our criticisms on table 13, I guess—that a 10



per cent rate of return that normally gets published is an after-tax 10 per cent rate of return, and in general we felt this sort of tax consequence should be neutral to the system.

**Mr. Makarchuk:** In terms of, say, the individual who works in a plant and who has a certain income, he will have to pay income tax on that, whereas this individual would not have to pay income tax on a certain portion of his income; that was not a consideration in your brief?

**Mr. Kaye:** It wasn't dealt with by Brian, but if you look at pages 31 and 32, we did make a comparison. We noted, that in the green paper they compared the rate of return on a bond or mortgage, I believe it was, and on a rental premises and they suggested a higher rate of return was appropriate because renting was a risky business. We compared these two forms of investment and, of course, the fact that a lot of the return on a building is in the form of capital gains, obviously entered into that calculation too. So to that extent, we did address that problem—

**Mr. Makarchuk:** We're talking about the free market and in effect what it may mean is the abolition of rent controls. You're fairly adamant that if rent controls were abolished, it would be one hell of a problem in terms of affordability of housing in Ontario.

**Mr. McKenna:** That's right.

**Mr. Makarchuk:** In terms of the subsidy —I'm trying to rush this a bit—what kind of a means test do you suggest? How would you go about the decision as to who would get the subsidy and who wouldn't?

**Mr. McKenna:** I think it's a most inefficient vehicle. What we suggest as the most efficient vehicle is the property tax rebate on the income tax.

**Mr. Makarchuk:** That's a tax credit that goes back to the individual.

**Mr. McKenna:** Right, the one that goes back to the individual.

**Mr. Makarchuk:** But how do we decide who gets it? You're going to look at it strictly in terms of the gross income or net income or something—a taxable income—

**Mr. McKenna:** That's right.

**Mr. Makarchuk:** —and the government will have to make the decision.

**Mr. McKenna:** Yes.

**Mr. Makarchuk:** Would you suggest that we remove controls and have a subsidy? Do you feel that's going to work?

**Mr. McKenna:** No. That's not going to work because all that's going to do is just

use tenants who have affordability problems as a conduit for funds to the landlords. They have to be in conjunction.

**Mr. Makarchuk:** Okay. That's all I have at this moment.

Thank you very much.

**Mr. Chairman:** Thank you gentlemen, very much.

It's now 12:15. The committee is going to continue on until 12:30 and resume at 1:30.

**Mr. Schwartz** from the Multiple Dwelling Standard Association is here. If you'd care to begin, sir.

**Mr. Schwartz:** Mr. Chairman, if I have only 15 minutes—

**Mr. Chairman:** Can you come back at 1:30?

**Mr. Schwartz:** Yes, I'd rather than be pressed for time now.

**Mr. Makarchuk:** Could we adjourn—

**Mr. Chairman:** Do you want to adjourn now?

**Mr. Makarchuk:** —and resume at 1:15, perhaps?

**Mr. Schwartz:** My presentation would be completely ruined if I'm confined to 20 minutes.

**Mr. Epp:** Here's a lady who's got something for 15 minutes.

**Mrs. Marcus:** I don't know whether Mr. Schwartz wants to come back at 1:30. He may not. I didn't hear what he said. He may want to take his time a little bit—

**Mr. Chairman:** You would prefer to carry on?

**Mrs. Marcus:** —but if he does, I think my presentation is fairly brief.

**Mr. Chairman:** Terrific.

**Mrs. Marcus:** Do you want to make that switch?

**Mr. Chairman:** How brief?

**Mrs. Marcus:** I think it's about 10 minutes. I'm really terrified at all the expertise that has been presented here which I don't have—

**Mr. Chairman:** It's Mrs. Marcus, is it?

**Mrs. Marcus:** Yes.

**Mr. Chairman:** Mr. Schwartz, if this is agreeable to you—

**Mr. Schwartz:** Yes, it is. I'm prepared to come back at 1:30.

**Mr. Chairman:** Thank you, sir.

**Mrs. Marcus:** May I be permitted to sit?

**Mr. Chairman:** Surely.

**Mrs. Marcus:** My name is Mrs. Marcus. I am the owner of a four-plex. I live in one of

the units. The block between Bathurst and one street west is entirely four-plexes, some on one side of the street have a basement apartment and the other side of the street doesn't have any.

We have a little association that we call the Markdale Neighbourhood Association. My few comments are really based mostly on my perceptions relating to our little association and somewhat in a broader sense.

I have tried to be brief because fundamentals, like the proverbial needle in a haystack, can become obscured and subsequently hard to find. My first remarks have question marks, if I may.

Why are owners of residential rental properties singled out for control? Rent control was an adjunct of the AIB. The main thrust of the AIB was the monitoring of excess profits of companies, with a directive to roll back. This rule could have been applied to excessive rental profits. The AIB is being phased out. Is not then phasing out the logical route that rent control should follow?

During the phasing-out period a program of adequate and affordable housing can advance towards a state of continuous process and progress. A program of adequate and affordable housing is the solution. Rent control is not.

In the preface of the policy paper mention is made of this. The Throne Speech announced that measures would be taken to stimulate the production of rental housing. I understand this to mean adequate and affordable housing, otherwise it makes no sense. [12:15]

Tenant protection. The approach I feel should be directed towards tenant help as opposed to tenant protection—help for the tenant who requires such help, which in many cases would be a temporary need; not all tenants need help all the time. The policy paper, chapter five, page 33, under affordability of rental housing, concludes that 70 to 80 per cent of tenants were not facing a serious affordability problem as it had been defined. The young woman who spoke last Wednesday mentioned a housing program that would provide co-operative housing. The now existing and effective tenant associations are in a position to consider investing in the buying of some of the many rental properties now on the market by pooling their resources, setting up their own credit unions and applying for the financial assistance they require to accomplish this objective. It is even conceivable that they could have rental units for other tenants which, with a fair return on their investment, could supplement their fi-

nancing. They could be partners in a program of renting with option to buy. A more dynamic approach is needed to attain the desired housing goals.

The continuous planning needed should most definitely involve these tenants via their associations, which represent the need for such a program. Given the incentive, removal of obstacles and red tape, investors, builders, engineers, architects and planners could design housing to suit the financial and social requirements of the 20 to 30 per cent group who have been omitted from provision that has been made for low-income earners.

The young woman who spoke last Wednesday was of the opinion that the private sector would not increase the housing availability, but failed to take into account the deterrents they face. An article appearing in yesterday's Star is one of the good programs pertaining to housing goals. I have a few here if you'd like to pass them around.

This too is the goal. Citizens should be encouraged to aim for and be assisted to own their own home eventually. Such a situation has many rewards for all. Home owners have roots, pride of ownership, they exude good citizenship and eventually, after 120 years, which saying is a Jewish blessing for longevity, the home will benefit the children of the family by easing the financial condition. Let us focus a little attention in order to be able to create for the tenant a condition so that renting for citizens is a stage to be passed through.

Landlord and tenant relationships: The Landlord and Tenant Act, coupled with rent control, has cast the landlord in the role of villain and has armed the tenant with a hostile and even contemptuous attitude. The present restrictions have reached at times nightmarish and unendurable proportions. Without exception—in my experience at any rate—when a tenant moves on there is needlessness as well as deliberate damage to the premises occupied. A lease based on enforceable mutual and binding agreement needs to be formulated. It makes sense to me that when friction and hostility exist, the parties concerned should be able to part company. Perhaps this applies mostly in my case where the owner lives in one of the apartments. The tenant has this option. The landlord does not.

Portrait of a property owner: Many a property owner bought a small or otherwise property with hard-earned savings in order to have a cushion for his retirement needs in the absence of any kind of union or company pension. He or she has been hanging



in there because the controls are hopefully temporary. Otherwise, that which for years was nurtured and the now-expended energies with the hope of some retirement income will be demolished.

The proof that owners of residential rental properties are suffering hardships is evidenced by the increasing number of sales of such property. This is the ready-made market for tenant investment and involvement that I earlier made reference to. If a respite is not to be, there will be an exodus which has already started and is pointed out in the policy paper of owners who because of an unacceptable status quo have no choice but to escape their predicament. Among these most are, if dedicated is not the most apt description, people well suited for this service because a service it is. What they have are handyman skills and pride in maintaining well-looked-after services. Many of them over the years were themselves recipients of those services.

At this point I should like to refer to a quote for which I mislaid the page number: "Accordingly any policy must include provisions for adequate return if continued private involvement is to be assured." I have interpreted this quote to be a recommendation, which is basically what the property owners appearing here before the committee are asking you to consider. Additionally, I feel that a mixed infusion of housing supply is the best design for ever-changing approaches to the housing requirement, something like a balanced diet.

I didn't get a chance to include my little story. May I? The farmer says, "I have to build shelter for my horses, cows, chickens, et cetera, before I build my own shelter. If anything happens to my farm animals I cannot be a farmer." The landlord says, "I have to provide for my tenants' comforts before my own, because if I do not I am not a landlord." I really very much dislike this term landlord. I am not a landlord; I am not a lord over anything or anybody.

Upkeep and enhancement: Tradesmen claim that since rent control, upkeep and especially much-desired enhancement of the rental properties seriously declined with the subsequent loss of many jobs. This condition has occurred not to the few, but to the many, which gives credence to the validity of the hardships incurred.

Perhaps after all, all that needs to be said is the housing conditions need a shot in the arm and a kick in the b-e-h-i-n-d. Rent control is the creation of a Frankenstein, and we have the skills to cure the perpetuation of the ills. It is counterproductive.

How to get rid of the thing? Surely the people of good old Toronto can discover a cure that is dynamic, creative, imaginative and involves all parties of differing views that will be a blessing on our houses of Toronto, Ontario, Canada.

Thank you for your attention. I feel confident that this committee of reasonable citizens can, even after considering opposing opinions, reach a decision for needed programs and fair conclusions.

**Mr. Chairman:** Mrs. Marcus, thank you. The full transcript of your comments will be available to the members of the committee and we can peruse it.

Are there any other questions before Mrs. Marcus goes? We have a few minutes.

**Mr. Rotenberg:** Mrs. Marcus, you own one four-plex? Is that correct?

**Mrs. Marcus:** I occupy one of the four.

**Mr. Rotenberg:** And that is all the property you own in the world?

**Mrs. Marcus:** Yes.

**Mr. Rotenberg:** Since rent control, or rent review, has come on, have you been to rent review tribunals or have you simply just added your eight or six per cent?

**Mrs. Marcus:** I have been once, and I wouldn't go back again.

**Mr. Rotenberg:** Can you tell me why?

**Mrs. Marcus:** Because I couldn't understand anything on those forms and when I went back I couldn't get the information from the officer. He said, "Go home again and look at this and come back again." And the next week I came back I said: "I did look at it and I'm sorry, I am no further ahead in understanding this." So I began to ask him questions.

I got the information little by little. He said, "Well, you can't get that because of this." I said, "What about this?" "Oh yes," he said, "yes, that is acceptable." But I didn't get any information from him. I don't really know even now, without being told, whether I really asked everything that could have been of some advantage to me.

**Mr. Rotenberg:** Have you raised your rents in the last year?

**Mrs. Marcus:** A little.

**Mr. Rotenberg:** Just the six per cent that you were allowed?

**Mrs. Marcus:** There is a big discrepancy in my place between one and the other. The one who is paying the more up to date rent, I raised less than six per cent because I feel it isn't fair for him to carry the burden. I feel the person who is paying the lower rent



—actually the person who is paying the lower rent has the largest apartment in the building, and he is paying a much lower rent. I just didn't have the heart to say: "I'm going to ask \$60 from this guy who is paying \$40 more than you are."

**Mr. Rotenberg:** I just want to find out, with the small amount of rent increase, are you keeping up with your expenses?

**Mrs. Marcus:** Breaking even—sometimes.

**Mr. Rotenberg:** You're not making any money on the building?

**Mrs. Marcus:** No. Sometimes I have to wait to catch up. For instance, the tax bill will arrive. I live in the borough of York, which I believe has the highest tax. The complete rent of one apartment goes for tax only. If we're thinking of the lower rent, the complete year's rent of the apartment with the lower rental does not cover the year's taxes.

**Mr. Epp:** Just one short question: Why is there this discrepancy between the rents?

**Mrs. Marcus:** Because the people who were in there had a long lease. Okay, I don't know—I'm not really blaming anyone. It was really my ineptitude. I don't remember the exact situation, and it really turned out that for a period of about four years there was no raise, no interest, no increase.

**Mr. Epp:** That was just prior to rent review?

**Mrs. Marcus:** Right, yes.

**Mr. Hall:** Mrs. Marcus, did you ever consider going to any legal aid agency, such as the clinic from the University of Toronto law school?

**Mrs. Marcus:** No, I'll tell you, for a person like me—

**Mr. Hall:** They offer advice to people going to rent review and I'm wondering whether you—

**Mrs. Marcus:** No, I've never gone. And I want to tell you, as I said, we've been hanging in there because we feel, "Okay, so we'll choke for a little while." But as it goes on I think it's—

**Mr. Hall:** Well, you might try them out and see if they'll be able to help you.

**Mrs. Marcus:** Yes, thank you.

**Mr. Makarchuk:** How long have you had the building, Mrs. Marcus?

**Mrs. Marcus:** Almost seven years.

**Mr. Makarchuk:** For what did you buy it and what is it worth today?

**Mrs. Marcus:** I don't know what it's worth today but it was \$83,000. That's not the

point. The point is that had it been in good repair—which it wasn't—I could not have got it for \$83,000.

**Mr. Makarchuk:** Right. But it's worth more today?

**Mrs. Marcus:** It's worth more today, but it's not worth anything to me until I sell it and I have the money. It might be good, as I say, in 120 years for some heirs. I'm not planning for that. I hope to enjoy the fruits of it somewhere along the line.

**Mr. Chairman:** Mrs. Marcus, thank you very much.

**Mrs. Marcus:** Thank you, sir.

**Mr. Chairman:** My apologies in particular to Mrs. Fancher. Are you here, Mrs. Fancher?

**Mrs. Fancher:** Yes, sir.

**Mr. Chairman:** Will it be possible for you to be first up at 1:30?

**Mrs. Fancher:** Sure.

**Mr. Chairman:** I'm sorry—second up at 1:30. Is that okay?

**Mrs. Fancher:** If it's okay, I only have a very brief presentation. Five minutes or so.

**Mr. Chairman:** We'll defer to you, Mr. Schwartz.

**Mr. Schwartz:** How many more five-minuters are there?

**Mr. Chairman:** One, I think.

**Mr. Schwartz:** If it's five minutes, I wouldn't mind, but if it's more, I—

**Mr. Chairman:** Mrs. Fancher, do you have time? Would you proceed ahead now perhaps?

**Mrs. Fancher:** Okay.

**Mr. Chairman:** Thank you.

**Mrs. Fancher:** I'd like to address you today in various capacities—as the secretary of the Quebec-Gothic Residents and Tenants Association and as a person who has worked with various tenant service groups in the Metro area in conjunction with organizing efforts and legal disputes. I'm also a tenant myself and have had considerable conflict with landlords in the past. However, I'm quite lucky at the moment. After 10 years I finally found a really good, thoughtful and selfless landlord who respects my privacy and is not interested in profiting at my expense.

[12:30]

With respect to Gothic Avenue tenants, several recent cases of rent review and eviction proceedings serve as very good illustrations of the necessity for continued and even stricter rent controls and closing of

eviction loopholes as well. In late March of this year, five tenants on Gothic Avenue were the subjects of 40 to 67 per cent rent increases, retroactive 16 months to December 1976. Since the tenants had been paying an eight per cent increase during this period, they are now liable for sums ranging from \$576 to over \$1,000; and they are liable because the landlord, Greenwin Property Management, failed to show up with evidence at several scheduled hearings and the rent review officer granted adjournments each time.

When the first series of hearings was completed, tenants were given an eight per cent increase decision on April 19, 1977. Greenwin then appealed the cases, resulting in a year of delayed hearings that ultimately ended with the present decision, based on so-called financial loss, which the landlord had never claimed. In fact, the appeal chairman and member told the landlord he had a financial loss situation, although the landlord was not claiming one, and these cases are likely to go to judicial review in the near future.

Greenwin had applied for increases based on the need to increase the rents on these properties in order to pay mortgages which were taken out in order to finance other projects. This, as we all know, is not allowed in the present rent review system. In actual fact, however, the landlord also simultaneously had eviction proceedings in court against these same tenants, which were unsuccessful for the second time. Currently, Greenwin is about to try to evict these tenants for the third time.

Some of you may know the history behind these legal battles. If not, suffice to say that Greenwin desires for political reasons to remove all its tenants on Gothic Avenue. They have tried to do this through rent review and the courts. However, fortunately for all the tenants, political activity contrary to the interests of the landlord is not a sufficient reason for eviction and rent increases at the present time.

What has happened is that tenants have had to constantly scramble to find legal advice and suffer through endless hearings of one sort or another for two and a half years. Throughout this period and even well before this period began, tenants have been forced to call the housing inspectors and have work orders issued in order to have any repairs done by the landlord.

To my mind, the fact that the landlord would go to such lengths to harass tenants with constant and unjustified legal action illustrates how necessary it is to protect tenants even more. Without rent review in

the present low vacancy situation, any tenant would be subject to a rent increase if that tenant opposed the landlord's point of view in any way. If, on the other hand, a commission or court were set up to deal with landlord-tenant disputes and housing infractions, such excesses and vindictiveness could be nipped in the bud and an agreement worked out between the parties. Instead, we now have an endless series of litigations which are entirely the result of Greenwin's unwillingness to make the slightest concession to their tenants.

In my own case, I was evicted last fall after a lengthy court battle by a landlord who claimed he wanted to move in himself. Since he was single and his son was a university student living downtown it seemed highly unlikely to me that they would occupy a four-bedroom house. In fact they are now turning the house into a lodging house and they have a building permit to put in five rooms there. I understand my own recourse for damages just doesn't exist.

I'd like to say that this perhaps indicates that landlords aren't used to being reasonable where tenants are concerned, whereas tenants are used to pretty well giving in to their landlord and trying to avoid any kind of struggle. Landlords are not used to providing an essential service, such as the Hydro or TTC does. They're used to investing in real estate with the primary purpose of making a profit. Landlords have to be re-educated to take into consideration the needs of their tenants before any controls can come off.

By the same token, tenants do not need protection from each other, they need protection from the landlord. It's not the person down the hall who has the key to your apartment. Tenants who are disturbing others should be dealt with, as are property owners or condominium owners in the same situation, by complaints to the police or other authorities, which are usually quite effective if you do them properly. However, if the landlord threatens the tenant, or rummages through the tenant's apartment when the tenant is out, it's much more serious because the landlord has a key and it's very hard to prosecute.

In a small building in Etobicoke I visited last spring in connection with a rent review hearing the landlady constantly came into the tenants' apartments late at night and rummaged through the cupboards looking for booze. They installed extra locks, which I suppose they could have been prosecuted for.

In another case, also in Etobicoke, an alcoholic landlady gave insufficient notice of a rent increase to elderly tenants; this was in a six-plex I think. When they refused to pay she yelled loudly outside their door for half an hour, threatening to put their belongings on the street. This upset them considerably. They finally called the police and the landlady ran off down the street or something.

In other cases, the landlord does actually put the tenants' belongings on the street and the police, when called, refuse to intervene in those cases. To me this type of direct physical or vocal harassment, as well as the legal harassment mentioned above, is much more important to society as a whole than theoretical discussion, largely unfounded in any fact, about why rental supply is not meeting demand.

Safe, affordable housing in good repair is a right that ought to come before the right of a large return on investment. The welfare of the citizens of this province should be the first concern of the provincial govern-

ment. The fact that tenants have kept the governing party in a minority situation should indicate that continuing improvements are necessary.

In conclusion, I'd like to say that a unified housing court or commission, perhaps even under municipal control to take into account local differences in rental situations, is absolutely essential. Not only that, but penalties for harassment and false eviction excuses, as well as illegal removal of tenants' effects, must be stronger and better enforced.

**Mr. Acting Chairman:** Thank you, Mrs. Fancher. Are there questions from members of the committee?

Mrs. Fancher, we have the benefit of the recorded information and also the brief that you've presented, which has been distributed to all members. That will be useful for the members in arriving at their conclusions. Thank you very much for making your presentation.

We'll resume this afternoon at 1:30.

The committee recessed at 12:37 p.m.



## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
Charlton, B. (Hamilton Mountain NDP)  
Epp, H. (Waterloo North L)  
Hall, R. (Lincoln L)  
Kennedy, R. D. (Mississauga South PC)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
McClellan, R. (Bellwoods NDP)  
Rotenberg, D. (Wilson Heights PC)  
Samis, G. (Cornwall NDP)  
Walker, G.; Acting Chairman (London South PC)  
Warner, D. (Scarborough-Ellesmere NDP)

### Witnesses:

Burton, R. M., Toronto  
Fancher, D., Secretary, Quebec-Gothic Residents and Tenants Association  
Gathercole, R., Toronto Community Legal Assistance Services  
Kaye, D., Toronto Community Legal Assistance Services  
Marcus, D., Markdale Neighbourhood Association  
McKenna, B., Toronto Community Legal Assistance Services  
Schwartz, J., Multiple Dwelling Standards Association  
Wilkinson, M-A., Toronto Community Legal Assistance Services









No. G-11

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



**Second Session, 31st Parliament**

Wednesday, May 3, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 3, 1978

The committee resumed at 1:43 p.m.

### TENANT PROTECTION

(continued)

**Mr. Chairman:** All caucuses are represented. Mr. Schwartz, if you would be good enough to identify yourself and the association you are representing.

**Mr. Schwartz:** My name is Jan Schwartz and I appear here today on behalf of the Multiple Dwelling Standards Association, an organization consisting of owners and operators of residential rental units across the province of Ontario—about 20,000 of them. The point I would like to make at the outset is that the great majority of our members are not developers or builders but rather investors. They are people from different walks of life who somewhere along the way decided to make an investment in a residential rental property; an investment which is rather a risky one, which does not, as some bonds or even mortgages do, offer returns on your investment from day one; and where the investor is taking a chance that he will make some return on his investment. Sometimes it doesn't work out, sometimes he makes nothing. In this industry you have to wait sometimes a year or two or more until you start making money—if you do make any money.

[1:45]

When rising inflation forced the federal government in October 1975 to introduce wage and price controls, the government of Ontario followed with the rent review act to supplement the federal anti-inflation program. Both were structured as temporary measures.

Prior to the introduction of the proposed legislation on rent review, officials of the Ontario Ministry of Housing, responsible for the drafting of the act and the regulations supplementing it, approached our organization, among others, for some input, which we gladly provided.

The basis of the act and its regulations was the freezing of rents at the July, 1975, level, permitting subsequent increases, which were not to exceed the increases in costs, with no consideration given to any return or

profit to the owner. If at the time of the introduction of rent review the owner had some profit, the best he could expect is to maintain the same dollar amount of profit without ever being able to increase it as long as this particular legislation lasts. If he had no profit at all and just broke even, he could never have any profit during the lifetime of this particular rent review legislation.

Our reaction to this feature of the proposed legislation was obvious. We were horrified by its implications. The ministry officials responsible for this plan admitted to us then, that this approach was meant only as a temporary measure, and would not and could not work on a permanent or even extended basis, as it would undermine the very essence of private enterprise and private ownership.

As inflation in 1975 represented a threat to the entire country, and everyone had to make his or her contribution to combat it, our organization felt that we had no choice but to tighten our belts and make the best of it in the remaining 19 months. Out of the total two-year period of rent review five months, as we all know, were retroactive.

Last year when the initial expiry date of the rent review act was approaching, the government found itself under strong pressure to extend it, particularly in view of the continuation of the federal wage and price controls. So the act was extended until December 31, 1978, making the total period of rent controls 41 months.

At this stage I would like to present to the members of this committee how rent review affected our membership at large during the almost three years of its existence. The worst feature of the legislation is the freezing of a situation which existed in July, 1975, nearly three years ago. I have already described earlier what the freezing did to the owner in terms of his profit, if any. Some may argue—and have argued—that at this point every landlord was making money, that no one was just breaking even.

The green paper, on page 16, admits that in the initial years buildings start out with low or negative returns and the profit margin improves over time. This principle applies



not only to new buildings. Many of our members who purchased existing buildings had to wait a year, sometimes longer, before realizing any profit. Those who acquired their property early in 1975 or in 1974, even earlier, may still be in a break-even position today and will remain in that position indefinitely for as long as this particular rent review legislation remains.

In our association we had several unfortunate cases where the owners were forced to sell at a loss because of certain aspects of rent review, as well as the Landlord and Tenant Act. More recently we have seen for sale advertisements in the Star. I believe last week this was brought up by some landlords.

The other damaging effect the freezing had is in perpetuating and increasing the inequities in rent levels which existed in July, 1975. This problem affects not only the landlord, but the tenant as well. Some tenant representatives talked about it before this committee, I believe, last week.

Let me give you a simple example: if two identical apartments on the same floor were paying, in July, 1975, one \$250 a month and the other \$300 a month, and a 10 per cent increase for the building was permitted on a cost passthrough basis, these two tenants will be paying after the increase \$275 and \$330 respectively. Whereas before the increase the difference in rent between these two apartments was \$50, it now increases to \$55.

The following year, and with each subsequent increase, the difference between the two rent levels will continue to increase. The question is: is it fair to the tenant who is paying more? His personal income could be considerably lower than the other tenant's who continues receiving an unjustified rent bargain and subsidy.

Such inequities are quite common, yet rent review ignores it completely. In some cases the differences in rents for identical or similar units is even bigger than in the example cited above.

The cost passthrough principle, which is the core of the current rent review program, turned out to be another nightmare for the owner, mainly because of the way in which it is being implemented by rent review personnel, or to be more precise by some of its members. Unfortunately, the act gave to rent review personnel tremendous discretionary powers and so it happens quite often that a certain cost item recognized by one officer may be disallowed by another. There were cases of vast discrepancies between decisions

of two rent review officers involving the same building and the same cost-revenue data.

There were also incredible differences based on the same data between a decision of a rent review officer and a subsequent decision by an appeal board. Again, the allowed discretionary powers made it possible. A number of our members felt that they were being discriminated against, particularly at the appeal board level.

The handling of financial losses incurred by owners has to be considered as a chapter by itself. According to the green paper, page 16, and I quote: "An exception to the cost passthrough principle was made in the case of financial loss. It was recognized that it would be both unfair and undesirable to lock a landlord into a loss situation with no mechanism for relief. Failure to provide such relief would lead to rapid deterioration and perhaps even abandonment of existing rental stock."

Sounds great, looks good on paper; in reality, it is a different picture. Only a couple of weeks ago one of our members had his case before the appeal board. His previously allowed rent increase by a rent review officer was reduced by the board by about 45 per cent and only one third of the financial loss was taken into consideration for the current year, leaving the remaining two thirds of the loss for the next two years. This is called relief; a relief which will result in a negative cash flow of \$1,000 a month, creating brand new losses.

Let me point out that in this particular case we are not dealing with a big, powerful, rich corporation, but with an average size investor, actually a middle aged married couple owning a single, 24-unit building.

It seems quite evident to any logical person that the words "cost" and "financial loss" have become meaningless as far as rent review is concerned. I could cite many more examples, but because time is limited I will move on and take a look at what the options are for the future.

The green paper offers us four policy options on rent review. Certain tenant groups, supported by some politicians whose philosophy does not carry much faith in the private sector, are advocating the option to continue with the present legislation. Their two main arguments are: a) scarcity of rental units; and b) affordability. Let's examine both of them.

It is a fallacy and a myth that Ontario experiences an acute shortage of residential rental units. It is simply not true; not today, not yet. There are no shortages in the rural areas and none in most Ontario cities.

Hamilton, for example, only 40 miles from Toronto, has an abundance of empty, unrented residential units. The vacancy rate, we are told, is over 12 per cent, and in some areas approaching 20 per cent. For some reason, so many subsidized buildings have been erected recently in Hamilton that half of them are empty. On top of that they have created a vacancy in the privately owned buildings, resulting in extreme hardships for many, particularly smaller, owners.

All this is being financed by the taxpayer—both the enormous cost of too much subsidized construction, creating the highest vacancy rate in Ontario on the one hand; and on the other the financing of a rather costly bureaucracy to maintain rent review, which under the existing circumstances makes no sense at all.

Let's move on to Toronto. Although there may be a shortage of certain types of units in particular areas, on the whole there are many thousands of vacant units in Metro Toronto today.

If you just look at the Toronto Star, and I brought with me these four pages, the Star has hundreds of ads. If you wonder who is it who advertises, who are the advertisers who pay for these ads: are they tenants looking for space, for shelter? Certainly not; it is the landlords and operators who are spending all kinds of money advertising, looking for prospective tenants.

It seems to me, and I have examined this closely, the vacancies are everywhere. Please look and see for yourself. This happens to be last Saturday's Star: downtown, in the east, in the west end, up north; at all kinds of prices ranging from \$150 a month and up.

These are the facts that we have. One can argue about vacancy rates—but based on what? These are facts.

And something else: besides landlords and managers, someone else is in the business of looking for prospective tenants. A relatively new type of enterprise emerged not too long ago; you can find it in the Star under the name "accommodation locator services," column 270. These entrepreneurs obviously know what they are doing. Most of them offer their services free to prospective tenants because they are getting paid by the landlords.

How could such a business flourish and why would there be so many ads looking for prospective tenants if we had a real scarcity of apartment units? The truth is, we don't, not yet.

The argument that most tenants cannot afford their rents is one of the favourite arguments of those pressing for permanent rent controls. But this is simply not the case. According to the green paper, only 20 per cent of tenants paid more than 30 per cent of their income on shelter. The overwhelming majority, 80 per cent, had no affordability problem. If some of the remaining 20 per cent do have a problem, it is an income problem, not a housing problem.

The people with limited incomes, suffering hardships, should be receiving some assistance from the government out of general revenues. Social agencies for income assistance should be the ones to determine who requires assistance and who does not. After all, it is not only rent that is involved. What about food, clothing and other necessities? No one suggests to press the grocer or the butcher to cut their prices for those customers who cannot afford to pay the price tag. No one asks the merchant to sell clothing or shoes, or whatever, for less to those who can't afford the price. Why is the one who provides shelter being singled out among all others and being made responsible for the poor and the needy?

While we are on the subject of income problems, the green paper makes a very interesting point. These problems are not the sole prerogative of tenants. Landlords too experience income problems as well as tenants. Many of our members fit the description of certain types of landlords, particularly smaller ones, referred to on page seven of the green paper. Many of these so-called "lords of the land,"—what a misnomer—are working people who, through years of hard work in factories, offices or some small businesses, managed to save enough for a down payment on a small building, believing this is a good investment, mainly intended for additional income in later years after retirement.

Our members, and others too who became owners of apartment buildings, in many cases put up their life savings, or a great chunk of them, as a down payment on the biggest purchase of their lives. They represent the type who does not take the position, "Look, I'm poor, what can the government do for me?" They started out poor but preferred, through hard work and toil, to help themselves. Perhaps their choice of investment wasn't the wisest, but why should society penalize them for it?

Under the present conditions—and any of the first three options on rent review in the green paper will not change the situation



much—this type of landlord has nowhere to go.

The larger corporations of developers and builders have many options. No legislation can force them to build rental units against their own interest. If not rental units, they can build condominiums, or single houses or townhouses; some switched to industrial and commercial buildings. Others went to greener pastures, such as Alberta, Florida, Texas, California. Some of the UDI members are acting today as general contractors building public housing for the Ontario government at no financial risk to themselves. And you can't blame them for it, can you?

The small landlord who invested in a building has none of the above options. He is stuck with his investment and he depends on just and fair treatment from his government, or else he will go under.

Last week there were several ads in the papers on forced sales of apartment buildings, resulting from the inability of the owners to meet their mortgage obligations. Upon checking with the trust companies involved, we were informed that such sales are on the increase, unfortunately. Are we going to stand by and let them fall one by one? The advocates of maintaining the present rent review act are trying to justify their stand by presenting all landlords as a class, a class of "haves"; and all tenants as a class of "have nots." The message they have is, "Let's protect the tenant-victim from the villainous landlord." This approach must not be allowed to prevail—they must not be allowed to get away with it.

Any other options—one, two or three—any but termination of the present legislation, which is option four in the green paper, will in the end drive the private sector from the rental housing market altogether and will cost the government, and eventually the taxpayer, many millions and billions of dollars when only public, and heavily subsidized, rental housing will be built.

The tenant who may be thinking that keeping controls is his best bet may have a hard awakening. He may be selling out his future as a tenant for a \$10 or \$20 cut in his next month's rent. First a neglected appearance of the building, then a gradual deterioration of the existing stock; eventually entire neighbourhoods of slums. It happened in New York and it could happen here.

We submit that it is in the interest of the tenant and the tax-paying public at large that the present rent review legislation is allowed to expire at the end of this year as scheduled. The time is approaching when a choice of fundamental significance will have

to be made. Do we, the public at large, still choose to rely on the private sector to provide capital and continue building the bulk of rental housing, leaving only the small percentage of subsidized housing to the public sector; or have we reached the conclusion that no private sector should be involved in providing rental housing?

Should we make this choice and eliminate the private landlord altogether, leaving the government as the only large landlord of the land, we will not be the first ones in the world to do so. Some European and other countries have chosen that path, voluntarily or otherwise. And what happened there? Acute, real shortages; newly-married couples waiting two, three or more years for a modest, confined apartment unit; black markets; key money. No hundreds of ads offering apartments for rent like we have in Toronto today; and no tenants' associations allowed—can you imagine a tenant association in Budapest or in Warsaw?

Are we ready for that? I doubt it very much. I am deeply convinced that once the public at large realizes what is at stake and what the alternatives are to our system of private enterprise, it will reject the idea of eliminating the private sector from the business of providing rental housing for the majority of our population. The near-sighted politician will, in the end, find that the electorate at large has good common sense after all and will reject destructive solutions regardless of their sugar coating.

The federal government had the courage to begin the phasing out of the anti-inflation program as of April 14, only two-and-a-half weeks ago, after keeping it for 30 months. The Ontario government and the elected members of the Legislature must have the courage to do the same with rent review. The phasing out will be gradual because of the provision in the act which ensures that the next increase on a unit will not occur until 12 months after the previous increase. Therefore an overnight stampede to increase all rents is simply not in the cards.

As for unconscionable increases, if any will occur they can be dealt with in one of the several ways which has been covered in the green paper or through application of the Unconscionable Practices Act before the courts. Eventually the free market will take over the control, a role none can perform better.

This brief is respectfully submitted for your consideration by the Multiple Dwelling Standards Association. Thank you.



**Mr. Chairman:** Thank you, Mr. Schwartz. I have two questions, one of which was answered in that last paragraph. What kind of short-term protection did you visualize for the tenant, but like Mr. Burton earlier today, you have mentioned this Unconscionable Practices Act.

On page two, in the third paragraph, you make reference to the fact that you were going to have to live with this program for, at one time it looked like two years, and so you had no choice but to tighten your belts.

**Mr. Schwartz:** Yes.

**Mr. Chairman:** What form does that take? How do you, actually, as an owner and operator of an apartment building, how do you tighten your belt?

**Mr. Schwartz:** You tighten your belts in this way. Let me give you a concrete example. If I had a ten-plex and this was my main source of income; and if I had, at the end of the year, a net profit of \$10,000, I cannot go to rent review and say, "Look, the price of milk has gone up so much, the price of meat, the price of bread." All I can tell the rent review people is, "My cost of heating and of taxes went up, so giving me eight per cent or six per cent is not enough; give me 10 or 12 per cent to cover that extra cost that I am sort of collecting for the municipality as far as taxes, or the price of gas or oil are concerned."

But by the tightening of the belt, I meant the absolute dollar. The profit in terms of dollars, according to the rent review, is the same today as it was in July, 1975, as far as the landlord is concerned. So we felt we had no choice. Inflation was rampant. There was a federal anti-inflation program. Housing is a provincial jurisdiction and we just had to live with it for the remaining 19 months. I pointed out that it was retroactive so we had to live with it for 19 more months, this is what I meant.

**Mr. Chairman:** One last question from me and then Mr. Makarchuk. You make the analogy between an investment in rental accommodation and bonds. Others make that same comparison. Earlier today the University of Toronto group thought it prudent that an investment in rental units, which constituted some risk, might reasonably yield something higher than a bond might yield. Now a two-part question: bonds sell on a yield basis and there is always a market for bonds. One gets the impression, after listening to witnesses here, that there is not now much of a market in apartment buildings. They sell too, I assume, on some kind of a yield basis. Is that a fair statement? Do

apartment units or apartment buildings sell on a yield basis?

**Mr. Schwartz:** This is a fair statement, yes.

**Mr. Chairman:** What would be in round numbers the current market price compared to what it was, say three years ago? They appear to be harder to sell.

**Mr. Schwartz:** The market price today is so depressed as far as apartment buildings or rental units are concerned, if somebody is really pressed and has to sell, let us say it is an elderly person or for health reasons, if he has to sell the only way he can sell is really at a sacrifice price. I know of cases where they had to do it and they sold at a much depressed price.

An investor, a typical investor of the sixties let us say—it was a very busy market then—could count on a certain yield. Maybe not from day one—it was always a risky business, buying an apartment building is probably one of the riskiest businesses—because you see in the sixties vacancy was a tremendous problem. You never knew how many units you would be stuck with unrented and for how long. So it was always a risky business, you were aiming at some yield eventually, but never from day one, never.

[2:15]

**Mr. Chairman:** I see. Thank you. Mr. Makarchuk.

**Mr. Makarchuk:** One of the things that keeps coming out in these hearings is that people are saying that if rent controls are removed there will be all sorts of apartment buildings going to be built. Do you subscribe to that idea, or do you not?

**Mr. Schwartz:** Let me answer your question this way: whether one builds or doesn't build depends on so many different aspects that to say that once you remove rent controls, everybody will start building tomorrow, of course, the answer is no.

**Mr. Makarchuk:** Okay, there is certainly no question about it; but generally that is the tenor and that is one of the arguments for the removal of rent controls.

Yet what you are presenting to us here is that there really is no shortage of apartments, there are all sorts of apartments. In other words, there is a surplus of apartments at this time, so there certainly wouldn't be any point in building them, whether you had rent controls or did not have rent controls imposed.

**Mr. Schwartz:** It is a fact that, particularly in the sixties there were too many built. We

had to go and offer one month and two months free rent; all kinds of inducements, like TV sets.

The market is the best way of controlling things. If you build too many units then builders will stop building until the vacancy rate subsides. It may take a year or two or three for the situation to turn around; but then when you start feeling a certain shortage, the private entrepreneur will know that now there is a bigger demand than supply and he will invest and start building.

Let me tell you this: the great majority of all rental housing in Ontario has been built by hundreds and thousands of little builders, not by 10 or 12 or 15 big corporations. Some people may have that impression, that the majority of all rental housing has been built by Cadillac or Greenwin or Meridian or Belmont. It is not true.

As a matter of fact, I was really surprised when the green paper said that more than one third, 34 per cent, of all rental units in Ontario were not even multiple units. This was quite revealing to me, and yet it seems to be true.

**Mr. Makarchuk:** Okay; then if we can sort of go at it backwards, what you are saying is the removal of rent controls is not going to encourage building?

**Mr. Schwartz:** The removal of rent controls will be one of the encouragements; and must be the first one to change the climate.

**Mr. Makarchuk:** To change the climate, okay. What we are trying to find out here is, are you saying there are no shortages?

**Mr. Schwartz:** How can I ignore hundreds of ads?

**Mr. Makarchuk:** I am not arguing with you, I am agreeing with you. Assuming I agree with you that there are no shortages. You remove the rent controls; you are going to change the climate and people are going to build buildings—for what, you haven't got shortages now?

**Mr. Schwartz:** If there are no shortages now, if there are hundreds and thousands of available units, they have to be rented first. If the supply and demand will change, then there will be a need for somebody to come and build.

**Mr. Makarchuk:** All right, we are talking about the future. There is no question about it we are talking about the future and this may happen, but in the immediate situation you are saying there are no shortages and removing or keeping on rent controls is not in any way going to increase or decrease the supply of units right now?

**Mr. Schwartz:** Housing is something in which you must look forward a year or two or three. If you want builders to start building two or three years from now, you must think of what you are going to do with rent controls today.

**Mr. Makarchuk:** If you have vacancy rates, as you say of 20 per cent, then I don't understand.

**Mr. Schwartz:** I was talking about Hamilton.

**Mr. Makarchuk:** I am not arguing that point, that to fill a vacancy rate of 20 per cent will take you longer than two or three years.

On your affordability, you are saying 20 per cent of the people—that was the figure in the green paper—have difficulty in affording the rents right now?

**Mr. Schwartz:** To be more precise, what the green paper was saying is that only 20 per cent of the tenants are paying more than 30 per cent of their income. That doesn't mean that all of these 20 per cent have an income problem.

**Mr. Makarchuk:** It really doesn't mean that, but it is about one of the best indicators we've got.

**Mr. Schwartz:** Right.

**Mr. Makarchuk:** If you remove rent controls then the rents would go up; is that right?

**Mr. Schwartz:** Some rents will go up. Not at once.

**Mr. Makarchuk:** Well all right, however it happens they go up. Then the level of affordability will change. In other words, instead of 20 per cent being unable to afford it, it will go up to some other figure?

**Mr. Schwartz:** Speaking of affordability, the main point I was trying to make in my brief was, "Don't settle affordability with the ones who provide shelter."

**Mr. Makarchuk:** No, we're just using the figure of 20 per cent.

**Mr. Schwartz:** But affordability is not just for rent.

**Mr. Makarchuk:** All right; we were using the figure of 20 per cent having difficulties with rent.

**Mr. Schwartz:** Only rent?

**Mr. Makarchuk:** Well, they may have difficulty with probably everything else, but we'll just say the rent in this case.

**Mr. Schwartz:** Okay.

**Mr. Makarchuk:** You either have a situation where if you remove rent controls the rents will go down, the rents will remain, or the rent will go up higher.



**Mr. Schwartz:** Please give me one example where you expect the prices to go down on any other thing?

**Mr. Makarchuk:** Well I'm just saying these are the possibilities. I'm not saying that this is what's going to happen. The assumption is that they'll go up; at least this is what I think will happen. And what then happens, in effect, is the affordability level goes up accordingly. In other words, you would have a greater percentage of people who would have this affordability problem. Would you agree to that?

**Mr. Schwartz:** I don't follow you. Would you make it simpler?

**Mr. Makarchuk:** Well listen; if you're paying \$200 for rent and you can afford it; and then your rent goes up to \$250, you've got an affordability problem. Do you follow me?

**Mr. Schwartz:** No, I don't.

**Mr. Breithaupt:** If there are three pages of ads, it allows you to move where there is still a rental of \$200.

**Mr. Schwartz:** Exactly.

**Mr. Rotenberg:** Your wages are going to go up too.

**Mr. Makarchuk:** Well the same situation happens right now. The wages go up every year at this time and what really happens is that this affordability problem can develop.

**Mr. Schwartz:** How do you know? You're talking about a person who is paying \$200 and then the rent goes up to \$250 and you say there is an affordability problem. And I'm saying how do you know? Maybe this guy won the lottery; or maybe his aunt died. I'm just giving you an example. He may have made an excellent transaction. He may be a commission salesman and he may have had an excellent year; now it is no affordability problem for him if the rent went up from \$200 to \$250.

**Mr. Makarchuk:** We want to go down to the level that you're using. You have cited New York as an example where rent controls created the problem. Do you expect two million Puerto Ricans and two million people from the southern states to move into Toronto next year?

**Mr. Schwartz:** I don't; do you?

**Mr. Makarchuk:** No. Did you take a look into that? That was the case in New York. That that's what happened in New York. Did you look at it that way?

**Mr. Schwartz:** What is your point?

**Mr. Makarchuk:** The point is that you're using as an example an influx of people with low incomes into a community and saying

that created a problem; you're using that as the reason you've got problems with rent controls; as with your other assumptions, such as the problems in Budapest. Did you look at the housing in Zambezi or some place like that?

**Mr. Schwartz:** If you feel more comfortable in Paris and in Vienna I will offer you the following: You don't see in the Vienna papers or in the Paris papers the kind of ads that you see in the Toronto papers. What I'm saying is that if you have advertising for hundreds and thousands of units available, how can you insist on saying that we have an acute shortage of accommodation? I say we don't.

**Mr. Makarchuk:** I'm not arguing that part at all. I'm not saying we have an acute shortage. We're arguing the fact that there is an affordability problem. We're not arguing about the acute shortage. You know there isn't a housing problem either if you've got \$60,000 or \$70,000 dollars to spare you can buy all the housing you want.

**Mr. Schwartz:** Affordability for whom?

**Mr. Makarchuk:** Well for most of the people, that's the problem.

**Mr. Schwartz:** That's not what the green paper says.

**Mr. Makarchuk:** Well actually that's an excuse for the removal of rent controls. As was pointed out earlier by the University of Toronto, that paper is just an exercise in deception.

**Mr. Schwartz:** Deception?

**Mr. Makarchuk:** Yes.

**Mr. Chairman:** We have a couple of more people on the list. Mrs. Campbell?

**Mr. Breithaupt:** Well, is Mr. Makarchuk saying that the rent paper statistics are not correct?

**Mr. Makarchuk:** No. Statistics are used to discuss, as a way to justify certain means. I suggest that if you examine the brief that was put out by the University of Toronto and compare their statistics and their analysis to what's in here, I think you'll come to the same conclusion that's in the paper.

**Mr. Epp:** You mean a different conclusion, that there aren't those false statements?

**Mr. Makarchuk:** No, that's not the argument.

**Mr. Schwartz:** It's the core of it.

**Mr. Makarchuk:** There's no argument over the fact that they've got the ads and there are vacancies.

**Mr. Breithaupt:** You're preferring their interpretation to the other interpretation?



**Mr. Makarchuk:** Yes, I am preferring their interpretation.

**Mr. Breithaupt:** But why call the second interpretation "deception"?

**Mr. Makarchuk:** In my opinion, the thrust of this green paper is not to examine the relative values or merits of rent control; it's more or less to persuade you that we really don't need rent control.

**Mrs. Campbell:** Mr. Schwartz, you and I know one another from past appearances.

**Mr. Schwartz:** Yes.

**Mrs. Campbell:** I want to say that you made some good points. There is no question that some of the small owners are in difficulty and have been; but with this exception, one of the figures that bothers me about the green paper—and I suppose we all have tunnel vision, those of us who represent people have tunnel vision—is that I find it difficult to accept the matter of the 20 per cent figure, for example.

Perhaps it's only because I'm looking at my own riding, from one end of it to the other, and I find that in the north end where we have some rather luxury suites, people are still terribly concerned about the rental situation. I think we face two imponderables and I'm inviting your discussion on that.

One is that I think a great many of us feel there is no question that when rent control comes off, at some point in time, there will be a substantial increase in rents; and you say that we don't know. I believe that to be the case because I think you have to look at the situation that we have seen where people have sought to avoid the effects of rent review by sales and replanning and other things. It seems to me that we can almost safely assume there will be an increase in rents. I suppose they'll vary; probably the smaller units will not increase in the same way as the large units, I suppose for obvious reasons.

The other imponderable is that so many people coming to this committee—and I congratulate you on your honesty—indicate that if we will just eliminate rent review there will be an influx in new buildings. I think that is another imponderable. We don't know what will happen, but from the past experience that we've had it would seem to me that unless financing is changed, as well as interest rates and the planning processes, we probably won't see any significant increase for a long time.

[2:30]

On what you have said about the slums that can be created, I think you may probably be

right on the question of affordability to this extent. The people will somehow manage to scrunch up together to share the costs so that they can survive in this market. Don't you think that that is the kind of slum that develops from the rents which people can't afford? Once you have bunched people together you see a worsening in the conditions of a building; if you take the elevator service for starters—where there are elevators.

Can I invite your comment on this kind of situation? I readily appreciate the fact that from your point of view we seem to be controlling only the landlords and not goods, not other prices.

**Mr. Schwartz:** First, in answer to what you have said about affordability in certain areas, I realized that the figures that we had in the green paper were average figures, and I am quite appreciative of the fact that in your particular riding they may be completely distorted. But on the other hand, I am sure that there must be some areas where there is no affordability problem at all. There are some luxurious apartments which pay \$1,000 a month; and I am sure there is no affordability problem there at all.

But again, speaking of affordability, the point I was trying to make in my brief is that I am trying to separate the problem of affordability from the problem of housing, because if there is a problem of affordability that problem is not confined just to the rent, but to food, clothing, everything else.

As far as slums are concerned, we must look around us at other countries and other cities, because we must learn from the experiences of other cities and other countries and what they have experienced as a result of rent control.

Rent control is easy to start, but it is a darn difficult thing to get rid of, as you ladies and gentlemen are experiencing now. It came in just for a short period; then the government and the rest of the parties felt that this was no time to take it off. Now we are facing a new expiry date at the end of this year.

Again I can see your problems. There will be pressures; maybe not yet, not this year, maybe next time around. This went on in Sweden for 30 years, and finally those very same organizations of tenants who pressed initially for controls came around and in the end it resulted that they were the ones who were lobbying and advocating: "Let's get rid of those rent controls and get some more buildings."

I have been in a number of cities in Europe where rent controls existed for a number of years—of course, there were no papers like

this with hundreds of ads—but what I found there was that they have really deteriorated. They had a tremendous neglected look. I also found that the landlord, because he is controlled, is renting space and nothing else. Everything else, every little repair to appliances, everything is paid by the tenant. He pays for nothing in the rental but the unit; that is the situation.

I don't think we should ignore all these places where rent controls have existed for a considerable length of time. We must not saddle the people who provide shelter with the ills of all the poor and needy of the world; this is a general responsibility of the government. I am not suggesting we should forget about the poor and simply ignore them; what I am saying is let's identify the problem for what it is and deal with it accordingly. We are going to ruin the housing industry if we persist in making the landlords alone responsible for all the ills and the poverty and affordability problems; that is the point.

**Mrs. Campbell:** You mentioned that some of the developers are building public housing for the government of Ontario. I'd invite you to tell me where. Is it senior citizen housing?

**Mr. Schwartz:** Senior citizen housing, certainly.

**Mrs. Campbell:** Where are they building houses for families? When you get a report, as we have, that an income of \$12,000 a year for a family of four in this area constitutes living at the poverty level, don't you understand that we have to grapple with how far the government can go with housing when it isn't even satisfying the needs of those with far less?

**Mr. Schwartz:** But, madam, this is the answer, really: you gave an example of an income of \$12,000 for a family of four and nobody will argue that this isn't a problem, of course it is. But because of that do you control all rents right across the board, over the entire province? Is that the answer? There may be many tenants who don't really need that kind of protection. If somebody is paying 10 per cent of his income on rent, what about him? There are more of those.

**Mrs. Campbell:** What I am getting at is that you are talking about the private market. What I guess I am saying to you is suppose we succumbed to your position and we said: "All right, let's get rid of rent controls." Don't you see that the private entrepreneur will be more and more reduced in his activities, since he will probably be building only for the people who can afford the high rents that he

wants to have? That is the way I view it, and it seems to me—

**Mr. Breithaupt:** He'll build for his market.

**Mrs. Campbell:** —that the market itself will force the private entrepreneur to a very limited activity, and the rest will all be government housing at a time when the government is getting out of the housing business. That is part of the problem.

**Mr. Schwartz:** In the private market, you see, we never know for sure. It is always taking a chance and it takes a year or two before you see results. How did it work up until now? How did we manage to be one of the best-housed people in the world? And it all worked under a free market. Was it a miracle? How did that happen?

**Mrs. Campbell:** It happened when the market began to be manipulated in my view.

**Mr. Schwartz:** I feel that society at large, through its elected representatives in the Legislature, ought to take a chance. You can always bring back controls if it really comes out that it simply doesn't work and you have to go back to controls. You can always do that. But I think it deserves a chance. I think the private sector, the private system in the housing field, must be given some breathing space.

An entrepreneur will build for all kinds of customers, if I may use that word, at different income levels; just like you can buy a car for \$3,000, \$5,000, \$10,000 or \$50,000. You can buy a pair of shoes for \$15 or \$100; the same thing will go for housing. If there are too many of one kind and there is no more market for that level then they will build some other.

First of all, all these unrented ones will have to go before a private entrepreneur will take a chance on investing his money. Our members, thousands of them, were investing money, buying buildings which were built by small builders. These small builders didn't have the organization, the capital

[break in recording]

come back. He may not come back in a year or two or three. As long as we have hundreds of available units he is not going to jump into it. But if the private entrepreneur feels there is really a shortage, he will build. But, of course, we are getting into another area—for how much will he be able to rent out?

Maybe we are expecting too much. Maybe we are talking in terms which are outdated. Maybe we are talking in terms of figures which are outdated. Maybe a rental level that we think is too high isn't too high at all. I don't know.

As other people said before me, the price of bread, milk and so many other things



jumped so much, and you keep asking if rents will come down. Will the price of bread come down? Will milk come down? Why should rent come down? The dollar is coming down. The buying power of the dollar is coming down. If somebody is paying \$200 rent, for one increase of \$12—six per cent—he is getting a bargain, he is getting a reduction. His rent may be up; but in a sense it goes down because the inflation figure is higher than six per cent, therefore if somebody gets a raise of six per cent in his rent he is actually getting a reduction.

**Mrs. Campbell:** Could you tell me, in your experience and that of the people you represent, setting aside the ads in the papers, what has your experience been on vacancies?

**Mr. Schwartz:** My experience, as far as our membership is concerned, varies to this extent, that we have some who happen to be in an area where there are very few or no vacancies and we have some that are crying on my shoulder every day saying: "My God, I have six units, and they have been empty for three months. I can't get rid of them." I would say that some sort of vacancy does exist right here in Toronto among the great majority of our members. Yes, this is our experience.

**Mr. Makarchuk:** On that point, we have tenants here and they say they can't find apartments at prices they can afford. Yet you have landlords that have vacant apartments?

**Mr. Schwartz:** Yes, all kinds.

**Mr. Makarchuk:** Why don't you lower the price so these tenants can afford the apartments?

**Mr. Schwartz:** I am not in the business of renting houses myself. Maybe he cannot—

**Mr. Makarchuk:** If the free market operated, would that be the natural law of events?

**Mr. Schwartz:** Not necessarily. The cost—

**Mr. Makarchuk:** I realize that. Why do you say on one hand that, yes, we will let the market forces decide—here you tell me that you have landlords with vacant apartments, we have tenants who are looking for cheaper rent, and somehow the market can't take care of that problem.

**Mr. Schwartz:** The market is taking care of the problem. Each one is handling this problem in his own individual way. If a landlord feels that he had better stick with this price and not lower the price of that level, this is the right thing for him to do.

**Mr. Makarchuk:** Right, but not if the tenant cannot afford—

**Mr. Schwartz:** If somebody is facing bank-

ruptcy and it is a matter of making the mortgage payments the next month, he just may very well do that.

**Mr. Makarchuk:** Right, it is cheaper for him to take a loss on that vacant apartment than it is to rent it at a loss.

**Mr. Schwartz:** But let me tell you something else. Without rent review, he could do that without jeopardizing his position in the future. He could rent on a temporary basis for a lower price and eventually be able to correct the situation.

But you see on the rent review, what he is doing is reducing the value of his property for a year. He is stuck. He has got a new base, he makes all the other tenants unhappy; it is the worst thing for him to do.

**Mr. Makarchuk:** That doesn't take care of the affordability problem, does it?

**Mr. Chairman:** We have four other speakers here.

**Mrs. Campbell:** I have one other question, and then I am through. We are dealing with a question of taxes. Can you assist us in developing a formula whereby a reduction in assessment, and ultimately taxes for apartment tenants, will be passed through to them?

**Mr. Schwartz:** That is a different problem, which is not really within—

**Mrs. Campbell:** No, but it is part of the picture we're talking about.

**Mr. Schwartz:** The principle that the tenants should benefit from a lowering of the assessment on apartment buildings is obvious, the argument for it is obvious; but in which form? That is, I realize, not an easy question to answer, because you see you are saying to some landlord who may be just breaking even on his operation, "Look, your taxes went down, so you have to lower your rent because of that." But taxes are only one component of his total expense picture. He may be getting a lower amount on tax, but what if his gas, oil and repairs have gone up? It is difficult, really, to come up with an answer just like that. I wasn't prepared to have you ask me this today.

**Mrs. Campbell:** I am sorry if that is unfair.

**Mr. Schwartz:** No, no; I didn't say that.

**Mrs. Campbell:** It's just that I think it is part of our overall discussion.

**Mr. Schwartz:** If you are suggesting that one should keep rent controls for that purpose, then of course I will argue.

**Mrs. Campbell:** I wasn't suggesting that. I simply asked the question.

**Mr. Schwartz:** I don't have a simple formula, but I do say to you that if taxes



were going to be lowered, the tenant will benefit from it.

**Mrs. Campbell:** How?

**Mr. Schwartz:** I am not sure whether he will get a cheque that particular month from his landlord. I don't know whether this is the form it will take. It may take a form of a lower increase, which is—

**Mr. Breithaupt:** But it will be included in any calculation?

**Mr. Hall:** How about the tenant paying taxes directly to city hall?

**Mr. Schwartz:** That would be the best. I think that would be an excellent idea, because we have been collectors for just about everybody. We are really collecting for the gas company, for Hydro, for the municipal taxes—for everybody. It is a cost passthrough. Any increase passes through us.

**Mrs. Campbell:** To the tenant.

**Mr. Chairman:** We have questions from Mr. Charlton, Mr. Rotenberg, Mr. Smith and Mr. Epp. I would just remind you, gentlemen, to look at your agendas and your watches.

**Mr. Charlton:** I will be brief, Mr. Chairman. You mentioned on page five of the brief, vacancy rates and the extremely high vacancy rates in Hamilton.

**Mr. Schwartz:** Yes.

**Mr. Charlton:** Do you have any particular feeling about what caused the situation in Hamilton?

**Mr. Schwartz:** As a matter of fact, this morning I called up my friend Bill Grey, who is in charge of the Hamilton association, and I asked him that question. He said essentially they overbuilt. There were too many publicly-assisted buildings. There were too many buildings built. That, essentially, is the problem in Hamilton.

**Mr. Charlton:** You mentioned also that they have subsidized buildings sitting half empty.

**Mr. Schwartz:** That is what I am told.

**Mr. Charlton:** Perhaps you could check that out for me and see if you can find out where these subsidized buildings are that are sitting half empty.

**Mr. Schwartz:** Are you from Hamilton, sir?

**Mr. Charlton:** Yes, and my constituency office gets a large number of calls from people with the affordability problems. I'll be damned if I can find them subsidized units to get into.

**Mr. Schwartz:** I attended a meeting of the Hamilton association of apartment owners, and there are all kinds available there.

[2:45]

**Mr. Charlton:** One of the things that I find happened in Hamilton is that, yes, the indus-

try did somewhat overproduce, but that is not the biggest part of the problem. The biggest part of the problem that I can see in Hamilton is the rent levels; the rents got to the level where the people wouldn't pay that level of rent any more without getting some kind of return, so they went out and bought a condominium town house, instead of staying in an apartment.

**Mr. Schwartz:** It was cheaper to buy. See how the free market works?

**Mr. Charlton:** But that is not dealing with your complaint that we should remove rent controls so that the rents can go even higher.

**Mr. Makarchuk:** If they overbuild in Hamilton, we should leave rent controls on?

**Mr. Schwartz:** Are you saying that in Hamilton the rents are too high?

**Mr. Charlton:** Generally speaking, yes, but not in all areas of the city. For example, you mention that it is broken down by area, and that is very true. For example, one of the hardest-hit areas is in the east end of the city, which is also the area of the city with the highest rent levels. There are some luxury buildings downtown that are higher, but they are luxury buildings with a different type of clientele altogether.

**Mr. Schwartz:** I have listened to many landlords in Hamilton, and their main problem now is how they are going to rent the units that are empty.

**Mrs. Campbell:** Let the market prevail.

**Mr. Schwartz:** That's it exactly. Rent control there is meaningless, absolutely meaningless, and yet the inequities in individual buildings, because of rent review, persist. You can't eliminate these inequities. It is most unfair to tenants.

**Mr. Charlton:** That is the whole point I was making. The vacancy rate in Hamilton didn't appear all of a sudden with rent review. It was already a problem before rent review. And yet landlords are still trying to push rents even higher. They are certainly not going to solve their problems in that fashion.

**Mr. Rotenberg:** I have a number of random questions arising out of the presentation, and I wanted to follow up on Mr. Charlton's remarks about Hamilton.

First, I want to point out to Mr. Schwartz that the figure I have from Hamilton, which is the CMHC figure of October 1977, is a 5.2 per cent vacancy rate; so I am wondering where you got your 12 and 20 per cent.

**Mr. Makarchuk:** The 5.2 per cent is fairly high in relation—

**Mr. Rotenberg:** It is a high vacancy rate, but I am wondering, Mr. Schwartz, whether you could document somewhat both your case for the high vacancy rate and the case for the fact that what you claim to be an excess of public housing in Hamilton is causing the problem. I am wondering. Could you, not now, but for the committee, give us some further written documentation on that?

**Mr. Schwartz:** If I can get it, I will give it to you.

**Mr. Rotenberg:** On that point, I don't know if it is within our purview, Mr. Chairman, but I think raising a point of a non-Toronto situation as distinguished from a Metro situation, could our consultant maybe expand on that a little bit to see whether the point that is made is valid, that there are very vastly different problems in different parts of the province?

Next, Mr. Schwartz: You talk about the inequities. Would those inequities have arisen because, when rent control came in, some people were coming off one-year leases, some off two-year leases and some off three-year leases? Could that have been the problem?

**Mr. Schwartz:** Some of them, yes.

**Mr. Rotenberg:** I think you were here this morning when the lawyers' group indicated that, rather than have the present system of rent review, they would advocate a certain profit margin, then have everybody go back and have some of these inequities relieved. Do you share their point of view that this might be one way to solve that problem?

**Mr. Schwartz:** I don't know how you can go about implementing it.

**Mr. Rotenberg:** It would mean, I think, some people would get a higher increase and some people a lesser increase to even them out.

**Mr. Schwartz:** This should have been done to begin with, but after 41 months of having this medicine, in our opinion, it is rather late to change the components of the prescription. I think it is time we give the free market a chance.

**Mr. Rotenberg:** The next point. You made quite a point about the advertising of vacancies in the Toronto Star and other papers. Have you done any analysis as to the price range or the areas of the majority of them? Are they concentrated in any one area or any one price range, or are they pretty well scattered?

**Mr. Schwartz:** They are pretty well scattered. I have looked through the ads in this particular paper, and they seem to be everywhere. They seem to be east, west,

north, even downtown and at all kinds of rent levels.

**Mr. Rotenberg:** Again, Mr. Chairman, the consultant might feel that is something to be analysed as to the apparent vacancy and the real vacancy, depending on the ads and statistics.

**Mr. Schwartz:** As a matter of fact, speaking of the ads, I found three of them that were placed, not by the landlords or managers, but by tenants. I was rather curious as to why, among all these hundreds of ads, a tenant looking for shelter would want to place an ad.

I found out that one of the three was a corporation that was looking for some furnished place for an employee of theirs who came from out of town. The second ad was placed by a lady who was offering baby-sitting services in exchange for accommodation. The third one was some lady who had a rather large dog and probably had a problem. These were the only three ads that I had found.

**Mr. Rotenberg:** Another point. You made a comparison between New York and Toronto. Is it not so that in New York they had a rent freeze where rents remained stable, whereas in Ontario there was a rental increase based on six per cent or, through rent review, more? Wouldn't there be a difference?

**Mr. Schwartz:** Ours is a freeze in the sense that whatever your profit, if any, was in July 1975, that position has been frozen. It is a freeze.

**Mr. Rotenberg:** In the New York situation, if a tenant paid \$200 a month rent, a landlord couldn't get any increase at all. Is that correct?

**Mr. Schwartz:** You could tell a hunchback somebody's got two of them, so he's not so badly off.

**Mr. Rotenberg:** The comparison isn't totally accurate because there is some increase here.

**Mr. Makarchuk:** In Cairo, incidentally, there is no rent control whatsoever and look at their housing situation.

**Mr. Chairman:** Mr. Rotenberg is a little weak on Cairo.

**Mr. Rotenberg:** No, I'm pretty strong on Cairo. As a matter of fact, I'm very anxious to help the people in Cairo. It would solve a lot of the problems. If you want to be serious for a minute, having peace over there will be a really great help. They can rebuild the city if they get some peace over there.



You mentioned forced sales by some of your members. Could you at some time give us an idea of how many there are and what percentage of units in Toronto are being subject to forced sales because of the problems of rent control? Are there any statistics on numbers?

**Mr. Schwartz:** Here is an ad that appeared just a few days ago in the Star where there are four of them. I followed it up and called up, I believe, Sterling Trust Corporation which was the mortgagee. They told me there seemed to be an increase lately of this type of forced sales where the mortgagee is unable to continue.

**Mr. Rotenberg:** In the best of times there have been forced sales. Can you give us any current statistics?

**Mr. Schwartz:** I don't think you've seen for a long time, in one day's paper, four ads of forced sales.

**Mr. Rotenberg:** What I'm asking you is can you get some further documentation as to numbers and increases?

**Mr. Kennedy:** That's not his job.

**Mr. Rotenberg:** All right; can we get that? Today we're talking about rent review and at some date in the future we will be talking about landlord and tenant problems. I've heard different points of view from different landlords. Which is hurting you most, rent review or landlord and tenant problems? Is there an answer to that?

**Mr. Epp:** Yes, I think so.

**Mr. Schwartz:** They're both hurting us. I'm sure some people are hurt more by the Landlord and Tenant Act than by the rent review, and the reversal may be true of others. I'm not prepared to give you a general answer that would apply to everybody equally, they're both problems.

**Mr. Rotenberg:** I have one other question I wanted to ask you. Mr. Makarchuk made some reference to New York. Their problem would stem from immigration. I don't think he meant to have racial overtones to what he said, but he seemed to imply there were some racial problems there.

**Mrs. Campbell:** No, he was talking about income problems.

**Mr. Rotenberg:** No, he said because they were Puerto Ricans and so on that there were problems.

**Mr. Makarchuk:** I said the people came from Puerto Rico and the southern states, but I said there were income problems.

**Mr. Rotenberg:** Actually, I didn't think you meant to imply there were racial problems.

**Mr. Makarchuk:** I said income problems.

**Mr. Rotenberg:** Fine. Do you notice, without in any way talking about anything racial, that there are a lot of immigrants coming into Toronto, be they in-country immigrants or out-of-country immigrants? Are they affecting the marketplace? Are there more people who are newcomers to Toronto renting or old Toronto people renting? Do you find that the number of newcomers is putting pressure on the housing market? Can you comment on that at all?

**Mr. Schwartz:** I still say there are quite a large number of available units and I still maintain there are no acute shortages. You can interpret it within your context.

**Mr. Rotenberg:** Does your membership have a wide price range on the housing market?

**Mr. Schwartz:** Yes.

**Mr. Epp:** You spoke earlier about bankruptcy. Have you got any data on the number of bankruptcies taking place with apartments, et cetera?

**Mr. Schwartz:** Over what period?

**Mr. Epp:** Over the last three years, for instance.

**Mr. Schwartz:** No, I don't have that figure for the entire province.

**Mr. Epp:** Were you implying earlier that the reason for these bankruptcies was because of rent review?

**Mr. Schwartz:** To a large extent, yes. I was just talking about some of our members. I wasn't talking about figures for the entire province over any particular period. I'd say that since rent control came out, in the initial months, we've had cases within our organization where some members, particularly of smaller units, who got into the market just prior to rent review—within the last year—had to get out at a loss.

**Mr. Epp:** I think there is a higher percentage of bankruptcies in all businesses now. I'm just wondering if there's a significant increase in bankruptcies in apartments and so forth, with landlords, as opposed to other businessmen.

**Mr. Schwartz:** I don't have those figures.

**Mr. Epp:** It's something we could check out because I think it's significant.

**Mr. Breithaupt:** I think we could find that out from the local registrar.

**Mr. Hall:** Mr. Epp, the chairman has agreed to do that.

**Mr. Epp:** I want to compliment you on the brief. I think it's an excellent one.



**Mr. Chairman:** One last question, Mr. Warner.

**Mr. Warner:** One, really, for the consultants, following up on a point Mr. Rotenberg raised. I think Mr. Hall missed his opportunity to grill the persons on their background and who they represent. He may want to do that later before Mr. Schwartz leaves.

**Mr. Hall:** He made that quite clear.

**An hon. member:** You came late.

**Mr. Warner:** You said 20,000 residential rental units; how many owners and from where?

**Mr. Hall:** That's a good question. Why don't you ask it?

**Mr. Warner:** You are usually the one who grills the people who come in front of the committee as to their credentials.

**Mr. Rotenberg** raised the question—

**Mr. Hall:** When I heard that two million Puerto Ricans came to New York City and their problems, I thought, "my God, what would it be like if 200,000 or two million Dave Warners came into here?"

**Mr. Warner:** The exodus of one Liberal wouldn't hurt me at all I'll tell you.

Interjections.

**Mr. Warner:** The question about population is important. If I recall correctly the latest figures from Metro Toronto show a decline in population for the first time in I don't know how many years. I wonder if it's possible to have some population figures in Metro Toronto over the last few years and immigration figures to Toronto over the last little while, because they have decreased as well. Earlier the point was raised about the birth rate; I understand the birth rate is almost at a negative position or an equal position, we're not quite sure about that. Those facts may or may not help us, but I think they're important in terms of trying to balance out what's going on with the market, knowing that the market in Metro is certainly different from other localities because of peculiar problems.

**Mr. Breithaupt:** If I can help, Mr. Chairman, the vital statistics reports that we get from the Registrar General's office—one just came in today—have had various comments on net immigration and emigration from Ontario, and there's usually one item studied as to a community or a group. They may have that advice.

**Mr. Warner:** Yes, they provide some information. I read those and they normally show the flow of people into Ontario and out of Ontario and to where and the numbers.

**Mr. Breithaupt:** They might well have the Metro figures too.

**Mr. Warner:** Yes, that's a help; but it doesn't answer the question in terms of Metro Toronto, for example, nor does it usually deal with the birth rate or the immigration from outside of Canada. It doesn't usually deal with that either. But that document and the latest edition of it might be useful.

**Mr. Rotenberg:** You've got to be very careful because there's a lot of hidden population in Metro. Neither the assessor nor the census taker catches a number of people. People who are doubled up in apartments, people who may be here illegally, and a lot of those people aren't—

**Mr. Chairman:** Sorry—not to interrupt, but these are matters we can deal with on our own and we will. Mr. Schwartz, thank you.

**Mr. Makarchuk:** There are a lot of hidden Tories out there.

**Mr. Schwartz:** As a matter of clarification, I mentioned 20,000 units and Mr. Warner made a point of it. I think you came a little late, sir, didn't you? I elaborated.

[3:00]

**Mr. Warner:** How many owners?

**Mr. Schwartz:** The reason we would rather talk about units than how many people is because it is not always very easy to identify the owner or the owners, or how many are actually involved. Very often we have an apartment, say a tenplex or a 20 or 30, where the wife owns it, the husband or a brother-in-law owns it, and his wife and a cousin. We find it easier to talk in terms of units rather than in terms of owners. How many owners? You talk of an owner of a building, but there may be four or five of them.

While I am on this subject, the paper talks about exemptions. You sort of assume that a six-unit structure is something that is owned by somebody who is small, and something with 50 units is quite large. So at which point do we differentiate between the large and the small landlord?

Also, you don't own the entire building. You may own an eightplex or you may own only 10 or 20 per cent equity in 100 units. So this is something to think about when you talk big or small.

**Mr. Warner:** That is really a curious thing. In other words your organization represents owners and operators, as it says here, but you don't know how many owners and operators?

**Mr. Schwartz:** We have them by the properties, but we don't have in our files how many people own that 50-unit building, as an example. We have the one who—

**Mr. Hall:** How many members do you have in the association?

**Mr. Breithaupt:** How many projects would this represent?

**Mr. Schwartz:** We are talking about, say 200 projects; but each project may involve four or five people.

**Mr. Warner:** How many members are there to your association—let's try that?

**Mr. Schwartz:** Around the 200 level.

**Mr. Warner:** You have a regular democratic process, part of which is the evolution of this—and officers and so on?

**Mr. Schwartz:** Yes, sure. It is a corporation, yes.

**Mr. Warner:** The association is incorporated?

**Mr. Schwartz:** It is incorporated, yes. It is an Ontario association across the province.

**Mr. Warner:** That is good. I just wanted to ask Mr. Hall's question because he had forgotten.

**Mr. Hall:** And you are the president, as you have indicated, I believe?

**Mr. Schwartz:** Yes, I am.

**Mr. Chairman:** Mr. Schwartz, thank you; and again apologies for the delay from this morning.

**Mr. Schwartz:** Thank you.

**Mr. Chairman:** The Urban Development Institute is next. We have their brief, and Mr. Strom is with us.

If you would be good enough, sir, to identify yourself?

**Mr. Strom:** My name is Bob Strom and I represent the Urban Development Institute. The Urban Development Institute is an institute of companies and individuals who are involved in the development industry, companies that build and retain shopping centres, office buildings, apartment buildings, single-family homes, industrial buildings, land development; and individuals such as consultants, accountants, lawyers, architects are involved in the organization.

The green paper, *Policy Options for Continuing Tenant Protection*, has explained the economics of the rental housing market and the effects of rent control far better and in far greater detail than we could attempt to do here. It has put forward the available options on the expiry of the rent review act, but has expressed no preference. That is for this committee and the government as a whole to decide.

It is our seriously considered opinion that there is only one option which can be sup-

ported by an objective analysis of all of its implications. The rent review act must be allowed to expire at the end of December, 1978.

We realize that rent review is an emotionally charged issue, but we urge the committee, to the fullest possible extent, to look past the emotional aspects and consider the following factual points which we believe are the most pertinent to a rational solution of this problem, and which we believe provide clear justification for this position.

Rent review was imposed as a temporary measure in 1975 and has already been extended from the original 24-month period to a total of 41 months.

The longer rent review is extended, the more grave its consequences will become and the more difficult it will be to remove. The history of this is worldwide, unvarying and irrefutable.

The two main consequences are: a) an exponentially increasing deterioration of the existing rental housing stock. What that means simply—and I should have put in a simpler word—it doesn't get twice as bad each year it becomes greater and greater. If it is bad one year it may be twice as bad the following year, and eight times the next year; it goes on a curve such as that rather than on a parallel curve.

Point b) is the virtual total deterrence of the private sector from constructing new rental housing. Both these developments are already self evident. To be brief, the normal processes of major investment in upkeep and maintenance, and in new construction, have been predictably and justifiably curtailed since rent review was imposed retroactively in 1975.

Neither of these consequences will be significantly reversed as long as any form of rent control remains in effect in this province; or to put it in its proper perspective, until the free market is once again allowed to operate normally.

It is also historically self evident that both of these situations will be reversed once the free market is allowed to prevail. No rational investor in a long-term commodity as costly as rental housing wants his property to deteriorate. Where there has been a need for rental housing and free-market conditions have prevailed, developers have always been prepared to invest in new construction, even if unprofitable in the short-term, if they could be assured of a reasonable long-term return.

The affordability of rents is a principal concern of the proponents of other options.



Yet the Ontario government's statistics show that average rents have always been readily affordable by the great majority of tenants in this province, and have become increasingly affordable over the past 20 years.

These statistics clearly demonstrate that affordability of rent is a relevant factor only with a small minority of lower income families. This is in no way meant to belittle this problem, but we do believe that the problem should be properly identified for what it is, an income rather than a housing problem.

To control the rents of all landlords for the benefit of all tenants in order to solve the affordability problems of these lower income families, would be economically depressing and counter-productive, as well as plainly discriminatory and confiscatory.

While all wages and prices were being controlled by the federal anti-inflation program, it was fair and economically logical to include rents. With the closing out of the Anti-Inflation Board, there can be no fair or economically logical justification for continuing to impose controls on only one segment of the population, those who have built or invested in this province's rental accommodation.

If the government of Ontario believes that it should be assisting those families which have legitimate income problems so that they can readily afford all of their necessary living expenses, then it should state this as a government policy. No form of housing by definition should have any relevance to such a policy. It should be a policy of income assistance to be provided for those in need, out of general provincial revenues. The more than \$10 million which would be saved by ending the rent review program would by itself be sufficient to provide a substantial amount of any such assistance that might be needed.

According to the green paper, some changes to the Landlord and Tenant Act are also possibly going to be required. One such change is intensely relevant to the end of rent review and ought to be an integral part of the expiry of the act.

A review mechanism should be established, within the Landlord and Tenant Act, under the jurisdiction of the Attorney General's ministry, to provide for fair and speedy mediation of claims of unreasonable actions by either landlords or tenants. Such a review mechanism could play two critically important roles in the area of rental rate disputes:

a) Tenants with claims of unreasonable rent increases could have them reviewed by an impartial mediator, a process which would ensure in the vast majority of cases that satisfactory settlements would be arrived at;

b) where the process has proved unsatis-

factory, depending on the circumstances the mediator could initiate two possible courses of action: if the landlord was being unjustifiably demanding he could be brought before the courts under the Unconscionable Practices Act; if the landlord's case was justifiable and a settlement could not be reached because of an income-tenant problem, the tenant could be directed to the appropriate social agencies for income assistance.

We fully recognize that the foregoing will not satisfy the emotional arguments favouring the continuation of rent review. However, we believe it is a reasonable assessment of the facts of the situation. It represents the only practical means of assuring the long-term help of our provincial housing stock and at the same time providing a proper and reasonable solution to the affordability problems of lower income tenants. Thank you, Mr. Chairman.

**Mr. Chairman:** Mr. Strom, one or two questions and then there are several other speakers. The Urban Development Institute, just a quick breakdown, if you would please, on the membership of UDI.

**Mr. Strom:** There are 48 different companies and a number of consultants who belong. They range from people who are in every aspect of the development industry. I talked about office buildings, shopping centres, single-family homes, apartment buildings and land development; with the consultants, who would be architects and other people involved with the development industry.

**Mr. Chairman:** Generally, in the landlord category then, we're looking at those who are larger rather than smaller?

**Mr. Strom:** The members may vary from those with small holdings to ownership of 500 units and up.

**Mr. Chairman:** The comment was made by Mr. Schwartz in the previous presentation that larger landlords, in particular, have an option that smaller ones don't, that is the option to move. Reference has been made several times already to the number who have moved to the United States. Reference, I think, has also been made to the fact that they've often moved prior to the imposition of rent controls. In your experience and based on the membership of UDI, did the bulk of the development money leave this country, this province, prior to the imposition of rent controls? Would the removal of rent controls, in your judgement, bring some or all of that money back?

**Mr. Strom:** Mr. Chairman, I think that's a simplification. First of all, the developed money didn't leave. A lot of the investment



that took place in the United States was done with the capital that was raised in the United States. These same people who are building in the United States would welcome the opportunity to build in the province of Ontario and other parts of Ontario. When the climate is right and when the possibilities are there for an economic return and some long-term stability, they will build here.

I don't think there's anyone who has left the province of Ontario who said, "I previously built here and will never build again." These people have expertise. They have knowledge. They have organization. They are utilizing all of these resources in the areas where the opportunities exist.

Some of those people didn't stop building when rent control started, because I think it was evident to anyone in the business world that rent controls were coming. It was a very emotional issue, I must say, to the extent that there were a lot of factual disparities evident in the media. Most businessmen, of course, are looking at the long term, they're looking ahead. It wasn't like a Pavlov's reflex, where the act came in one day and they stopped that day. The climate existed prior to that. These same people who had organizations and resources were looking for opportunities to utilize those resources and found many areas other than the province of Ontario to carry out their activities.

**Mr. Chairman:** Thank you. The last part of my question, then: in your judgement, if the rent control program did terminate at the end of December, would there be a significant change in the development and building pattern in this province?

**Mr. Strom:** I firmly believe that to be the case. It wouldn't happen the next day, because buildings aren't built that quickly. There is some zoned land in Metropolitan Toronto and in the areas immediately surrounding Metro where owners of these lands would be anxious to commence construction. There are also other areas within Metro Toronto where discussions are taking place with municipal officials to rezone it from its present use in order that zoned land would be available for construction. But yes, there would be starts very shortly after a definitive statement came out that rent controls were going to end.

**Mr. Rotenberg:** You have taken a very black and white point of view of rent reviews, as have some members of this committee and some of the tenant associations. "It's got to stay the way it is or it's got to be removed," are the points of view. There are some of us here who are looking for a middle way,

realizing that in the long term maybe rent review should be phased out, but in the short term there are still problems; and not just affordability problems of the lower income people who can be handled by subsidy. In any subsidy program it's the middle-income person, the person that's just above the line, who runs into some real problems when rents go up faster than inflation.

Have you any other alternatives of how it could be phased out over a long period of time, instead of rent review just stopping on December 31, 1978? Have you given any thought to selective rent control? That is, applying it in certain areas such as Metropolitan Toronto where there are problems and maybe not applying it in Hamilton, if what was said was correct, where there are no problems? Have you given any thought to some other form of a rent review process, different from the one we have, but not just the black and white "drop it completely"?

**Mr. Strom:** In order to come to this conclusion, Mr. Rotenberg, we didn't start from the position that rent controls had to end and there is no other alternative. What we did investigate were the possibilities. Were other jurisdictions doing things that perhaps could work in the province of Ontario? We looked at Alberta, where they phased out rent review when a unit exceeded a certain rent. We looked at other jurisdictions and felt that, in all fairness, in the final analysis there has been most success in every part of the world where free market was allowed to exist. This was the fairest situation to everyone, landlords and tenants. Tenants would benefit as much as landlords in a free market situation.

We've seen periods, over the last 20 years in which I've been involved in this industry, ranging from shortage to a glut on the market. In the last 20 years, rents have gone up substantially less than incomes have gone up during that same period of time.

[3:15]

**Mr. Rotenberg:** Right now we're into a particular bind in at least part of the province of Ontario. Do you have some suggestions as to ways of doing things other than your suggestion here?

**Mr. Strom:** Mr. Rotenberg, I don't think there's an equitable and fair manner by which to phase it out, for anyone, other than to end it, period.

**Mr. Rotenberg:** I was interested in your answer to the Chairman's question that if we stop rent control and rent review, then building will start up again. We hear an awful lot of other complaints from builders and developers, as we heard this morning, about

high mortgage rates, high construction costs, capital gains and land speculation taxes, the time it takes for approval and all the red tape at all levels of government. How would you rate, if you can, rent review in the scale of the problems that developers have as far as building or not building?

**Mr. Strom:** That's a difficult thing to answer. I know exactly what you're saying—

**Mr. Rotenberg:** You seem to have answered the chairman by saying that is the key question, and that if that goes out then building will start up again. Is that really so or are there some other problems?

**Mr. Strom:** That's really so. Under rent review, if you look through here, they give what I think is an excellent dissertation on the apartment industry. Being involved in private enterprise, I have never seen anything put out that is so comprehensive. It states in there, and truly so, that traditionally over the years when people invested in apartment buildings and in the construction of a new apartment building, they would look for a long-term return. If they built it for the immediate return, we wouldn't have any private apartment buildings in this province today.

The same thing applies here. When we in the industry have the confidence that over a long period of time the market will shake out and there will be a levelling out and a fairness and equity between the different types of units, new buildings could be built as long as they are well built, in the right location and catering to people's needs. I think either Mr. Breithaupt or somebody else mentioned filling the market's needs. That's it.

If you build in one city, let's say, a lot of subsidized housing where there's no need for it, or senior citizens' accommodation where there aren't enough senior citizens, obviously the possibility exists that these units may not be absorbed by the marketplace. But by building where there is a need for that type of housing, I am confident it would be accepted in the marketplace and there would be enough builders who have serviced land ready to go. I'm not talking about where rezonings must take place and where that could take a length of time. They may intend to build there, once they get the proper zoning. I'm talking about people who have zoned land ready to go.

**Mr. Rotenberg:** You made a point about some form of rent review for unreasonable rent increases. How do you define an unreasonable rent increase that could go to this rent review you're proposing?

**Mr. Strom:** That's a good point and it's one we gave a lot of consideration. First of all, I'll make a comment regarding landlord and tenant relationships. Although, as Mr. Schwartz said, you may be talking about the haves and have-nots, to me that's a lot of garbage. That's a small percentage of the people who rent accommodation. The province of Ontario found it out when they had someone do a survey for them. Many private builders have done this on their own in order to ascertain the acceptability of the housing they were providing.

The vast majority—and I'm not being naive by saying all of them, and I know this is a usual result—the vast majority of the people who live in rental housing in this province are reasonably satisfied with the level of service that's provided to them. That's where confrontation doesn't take place. Confrontation takes place where one tenant is paying less money than another. That seems to be one of the greater problems that exist today. "He is paying less than me," they say, "because rent control in a way froze his rent at a lower level than mine." I'm suggesting to you that with a mediator bringing two people together in most instances they could arrive at something that would be mutually satisfactory.

In the instance where it doesn't occur, there are people who can analyse the situation by looking at the rents of the other people in the building for similar accommodation, and for other accommodation in the immediate area with the same type of amenities, and come up with what they think is a fair market value.

**Mr. Rotenberg:** And it could be mandatory to roll back a rent if it was thought to be unreasonable?

**Mr. Strom:** In our submission, that is something that should fall under the Landlord and Tenant Act.

**Mr. Rotenberg:** And if they are still not satisfied, you mentioned they could proceed under the Unconscionable Transactions Relief Act? Are you aware of any tenant who has ever got a judgement under that Act?

**Mr. Strom:** I don't know of anyone who has ever applied for one.

**Mr. Rotenberg:** Or ever applied for it?

**Mr. Strom:** Absolutely.

**Mr. Rotenberg:** Has it ever happened?

**Mr. Strom:** I don't think so. I am not a lawyer.

**Mr. Rotenberg:** Do you really think that is a viable alternative?



**Mr. Strom:** It is viable only to the extent if somebody goes through a process where somebody has been appointed and supposedly is neutral, and is not satisfied with him. Frankly, it was done to satisfy the legal profession in order that there would always be a legal someone—that is, the courts—who would be the final arbitrator of these things.

I firmly believe that it wouldn't get to that point, that it would be negotiated between the two of them, and in most instances the arbitrator would come down with something that would be reasonably fair for both parties.

**Mr. Rotenberg:** The arbitrator's decision would be binding, in your opinion?

**Mr. Strom:** In my opinion, that is correct.

**Mr. Rotenberg:** Thank you.

**Mrs. Campbell:** I am interested in what you have been saying about the mediator, because one of your members owns limited-dividend housing; and to some degree, I suppose, one could say that CMHC plays a role of mediator. It has been remarkably unsatisfactory, and I wonder if you have any comments about that kind of so-called mediation.

**Mr. Strom:** I don't believe that CMHC in limited-dividend buildings plays a role as a mediator. Their role is to examine the financial information that is submitted by the owner of the building in order that they may justify or allow a rent increase. I really don't believe they play the role of a mediator. I really don't think they intend to play the role of a mediator.

I am talking about someone who would sit down with both parties, sit down in an objective and unemotional manner and weigh the sides, and try to get some kind of compromise between the parties.

**Mrs. Campbell,** in your long and illustrious history in the legal profession and in politics, I am sure you know that in most instances when you bring reasonable people together you usually come out with a solution that is reasonably acceptable to both parties.

There are going to be exceptions—and I am sure you can name them, as I could—but as long as it is done by someone who is experienced and knowledgeable in mediation in bringing the parties together, and in an objective and unemotional manner, in most instances they could arrive at the kind of a compromise or solution that would reasonably satisfy both of the parties.

**Mrs. Campbell:** I would assume that if you are taking a mediator, and I think you are right about the usefulness of this, it would of necessity indicate that all the facts were available to all the people involved.

**Mr. Strom:** The mediator couldn't mediate, of course, unless he had all the facts.

**Mrs. Campbell:** That is not what I asking. The facts would be available to both sides.

**Mr. Strom:** I must admit to you that I haven't gone into the mechanics and how it would work to that extent. I am sure the Legislature, in their wisdom, if this is the area in which they go, will set the stage in such a way that the mediator could make an objective decision; and obviously, if they felt at that time he would need more information, or the information should be available to all parties, that would form part of the legislation.

**Mrs. Campbell:** As a matter of fact, that is part of the legislation we now have, but it isn't working very well.

I would like to go back, because you are raising, I guess, the orthodox reason for removing rent review; that is, that there would be—and I grant you, you didn't say immediately—an increase in the building of rental accommodation.

I really have to pursue that with you because it seemed to me that the reason the rent review came on was that, before rent review, there was almost a cessation of building, certainly in Toronto. You know, as well as I do, that wasn't because of rent review; it was because of the financial conditions and the—

**Mr. Strom:** If I may be so bold, Mrs. Campbell, you say, "I know as well as you do," and I don't accept that.

**Mrs. Campbell:** You don't accept that?

**Mr. Strom:** I don't accept that, no. I accept the fact that the industry could see through the media and through the political discussions that took place that rent review was coming; it was inevitable, it was a matter of time. Whether it happened late in 1974 or early in 1975, it was going to happen as sure as today is Wednesday.

The industry, looking ahead in the long-term didn't wait and say, "Well, let's wait until they pass the legislation." Everybody knew it was going to happen, it was a matter of time.

Yes, the cost of mortgaging was one consideration, obviously. The cost of construction was also a factor; but the greatest factor was the fact that everyone felt, with all of these things, there was no way we could transmit what we felt was the market rent on these units, on any units we had, if there was rent control.

We see the evidence in New York and Paris and Vienna and other places that had



it. Vienna put it on in 1914 as a temporary measure at the beginning of World War I. It is still on there today. It becomes a very difficult thing. That is why I answered to Mr. Rotenberg that the only way to end it is to end it.

**Mrs. Campbell:** Yes; but you see now I am not following your logic, because you are saying to me let the free market operate.

**Mr. Strom:** Right.

[3:30]

**Mrs. Campbell:** I certainly believe that; from my point of view anyway, if the free market had been operating successfully then we probably would not have had rent review. I say to you that it was the cessation of building, and all you have to do is ask your members, whom I found came to me many times, just exactly what they were talking about. They were complaining at that time, in the 1960s and later, that if we would only change our planning process to enable them to cut their costs, they would get on with building.

Now they didn't get on with building, and at that point in time I don't think it was something that anyone would foresee, that down the road was rent review or rent control. There was discussion about it but they were after us to try to do something about the planning process, to try and do something to change the interest rates, to try to do some other things. I suppose in part, certainly it was a part of their discussions with us, we were asked if we could do something to stop the escalation in building costs. So that, in essence, what they said to us was, "We really need something of a freeze in the cost of building if we're going to be able to go ahead and provide." There was always a good reason but it wasn't the rent review reason.

**Mr. Strom:** Mrs. Campbell, we built, the industry built. Private rental starts in 1973 were almost 34,000. During the late 1960s and early 1970s a tremendous amount of construction took place, especially in Metropolitan Toronto.

**Mrs. Campbell:** There was?

**Mr. Strom:** Yes, and the planning processes that existed in some of the municipalities caused some real, substantial financial hardships, which according to one of the large newspapers in Toronto, that publishes in the afternoon and evening, contributed to the tremendous cost of condominiums today or lack of new rental starts; it was caused by municipalities holding up the approval of planning for three, four, five years. There's one example here of, I think it's eight years and it still isn't completed.

Carrying that over that period of time is a substantial cost and somebody coming to you from the industry is saying, "We need some alleviation of this problem." That's absolutely true. It was true at that time as it's true today. But there still was a tremendous amount of building, as evidenced by 34,000 starts in 1973 and 3,000 in 1977.

**Mrs. Campbell:** Yes, I recognize that, but nevertheless, there were complaints.

**Mr. Strom:** Mrs. Campbell, I'm sure they've complained forever; businessmen have always complained. It could always be better than it is; I think that's normal. Whether they're business people or whether they're people in the professions, they complain it could always be better than it is and there's always something that's thwarting their aspirations or their possibilities for financial returns.

**Mr. Breithaupt:** It's part of the human condition.

**Mr. Strom:** Absolutely.

**Mrs. Campbell:** I suppose your answer to this question is quite clear, but I'd still like to have it for the record. Since all new apartment development is not covered by rent review, why would that not be an indicator as to the desirability of producing new housing?

**Mr. Strom:** There are really two answers and I'd like to give them both to you.

**Mrs. Campbell:** I'll bet I know, I'll bet I've heard both of them.

**Mr. Strom:** You could probably do a better job than I could of it. One of them is the fact that in order to market something that's higher priced than some other commodity, no matter what it is, there has to be some advantage to the person to buy or to spend money on it. For example, if there's a suit, then there's got to be a spread between something that's junk and something that's good for the person to buy the good one.

The same thing occurs in the apartment rental market. To market a new building at \$150 more than an old building, for example, you'd never market it. The spread has to be a reasonable one for someone to say, "Yes, for that extra money, it's worth it to get into this new building with these new features in it." Over a period of time, with one part being controlled and the other part not being controlled, if this continues for an extended period, the controlled one would be substantially below the market and substantially below what comparable accommodation of new building would rent for. Consequently nobody would rent the new building because it would be, let's say substantially higher and just out of the ball park, higher than other

housing—that may not be comparable to it but it would provide housing.

**Mr. Breithaupt:** So you say the gap widens.

**Mr. Strom:** The gap has to widen because if the rent controlled unit doesn't go up, or it goes up very little, it means that it's not coming closer to the other one, as it should.

**Mrs. Campbell:** So that I suppose then if we took rent review off one would have to have that balancing factor.

**Mr. Strom:** Well, that's where the marketplace would come in and it would balance. It's done this traditionally, because as long as there have been new buildings built, there has been an upgrading, if you will. People say, "Well that's a nicer building or a little better location," and that's just enough. There may be a differential of \$50 or \$75, so they say, "For that it's worth it, I think we'll move." That's why many of the lower priced units became available in those days before rent control came in. It's the same thing as we talked about with senior citizen housing, the same thing occurs. If there are a number of senior citizens who maybe would like to move into senior citizens' housing, but let's say there isn't one that satisfies their needs as far as a location and other amenities are concerned; but if they do move, then there is a filtering process whether it's a single family home that they sell or an apartment they give up. There has been a continuing cycle of going that way that has always existed but which doesn't exist today.

**Mrs. Campbell:** What do you say of the market, the free market influence in a place like Hamilton where you have these rather large numbers of vacancies?

**Mr. Strom:** What's happening is that this is the best form of rent control there is. There are many buildings in Hamilton where the amount of increase is very little, not six per cent, and there are areas in Kitchener today where, on the lease renewal they can't increase it by six per cent because the market wouldn't pay that as there are alternatives available to the people. That's precisely what I'm saying, by making enough units available on the marketplace, that will control the rents, as it's done traditionally; it's always been that way.

**Mrs. Campbell:** Yes; well that's what I understood to be the effect of the marketplace, but as I understand it it isn't working in Hamilton.

**Mr. Strom:** We have a different opinion. I say it is working in Hamilton. It doesn't work in all the places, it depends what the affordability is. Somebody could come in—look I've

got a father who is 86, I wish he was here because in his own fractured English he would tell you he's being ripped off by his landlord, because he gave him a six per cent increase.

**Mrs. Campbell:** I wish you'd bring him, that would balance up.

**Mr. Strom:** You're right, that's why I don't bring him with me! I keep him at home. He lives in an apartment, that's his philosophy. He can afford the rent—I'm making this public—he can afford it; with difficulty but he can afford it. There are a lot like him; it's scary to him and it's scary to a lot of people and I can understand that. I can understand a lot of people really being—

**Mrs. Campbell:** Can he afford it or can he pay it?

**Mr. Strom:** He can pay it, and most people are paying it and can afford it; but it creates problems for them there's no doubt about it. It's always been this way, that's been no different from what it was in 1930 or 1940, yet they paid the rent. It means they looked at their expenditures and made priorities in what was the most important. I'm not saying that people shouldn't afford luxuries, but there are certain things in life which are necessities. If people balanced their budget in the way of balancing priorities, yes, these people have an affordability problem.

The Toronto Star in July 1975 had a story about a man on Don Mills Road whose rent on a four-bedroom townhouse was \$380, and it was astronomical. How could he afford it with two brand-new cars? It was in the paper that he had two brand-new cars. I suggest to you that he had an affordability problem. But did he really have a problem? Maybe his priorities weren't balanced properly.

I'm not saying this doesn't exist in Hamilton, that the people don't have this problem; I'm sure they do. What I'm suggesting to you is that there are many buildings in Hamilton where the landlords cannot give a six per cent increase because the marketplace won't allow it; the people will move out and to another building.

**Mrs. Campbell:** What I would have thought would be that, if the market was functioning, they would reduce their rents to get the vacancy—

**Mr. Strom:** Mrs. Campbell, that's a business decision they make in the same way that if Eaton's had a suit for \$200 which wasn't selling and I offered \$150, Eaton's feel they can sell that suit for \$200; that's what they do.

**Mr. Charlton:** So they're not dealing with their affordability of being able to keep their



buildings; they're not adjusting their priorities.

**Mr. Strom:** No, as a matter of fact, I differ with you, sir. It's just the opposite; they decide whether they can exist with that, hoping that tomorrow they will rent that apartment for \$200 rather than \$150. That's a business decision they make as much as when they invested in the building and risked their capital in the hope of making a profitable return.

**Mr. Charlton:** They've been sitting that way for three years now—

**Mr. Strom:** Then they're poor business people. But that doesn't say every building in Hamilton is doing that for three years. You are taking one or two isolated examples, and I suggest to you that that's—

**Mr. Charlton:** I'm not saying that every one of them has been sitting for three years.

**Mr. Strom:** If it happens in one or two cases, it doesn't mean that all people who invest in real estate are bad business people. This person may be a bad business person. There is no way that one landlord, one politician or one anything can account for everyone else in the same profession or business.

**Mr. Charlton:** No, I'm not saying that the whole profession is dealing that way. What I am saying is that the rents in Hamilton went beyond what the market would bear, and the market is not working to bring those rents back down.

**Mr. Strom:** I think it is. I think that's a perfect example of the marketplace at work, because if a person has vacant units—

**Mr. Makarchuk:** If that's perfection, I would hate to see imperfection.

**Mr. Strom:** The perfection is the fact that there are vacant—

**Mr. Makarchuk:** There would be absolute chaos.

**Mr. Strom:** As a matter of fact, it's better than having, let's say, the government subsidize it at a cost of \$275 per unit per month, or than in Sweden, where they just went off it. As a matter of fact, Mr. Chairman, that reminds me of something that I think is very worthwhile; and I did want to mention it, although it wasn't in the brief.

It's very interesting that in the last short while there have been two American cities that have held referendums on rent control. Both cities are very strong university towns, where I imagine the young, the idealistic and the activists all sort of merge together. One was in the city of Berkeley, California, the home of Stanford University, and the other

was in Madison, Wisconsin, the home of the University of Wisconsin, both large universities of more than 30,000; I don't know what the specific enrolments are, but they are more than 30,000.

In both cases, rent control was overwhelmingly defeated in a referendum by the people in those communities. They recognized, as the people in Sweden did, that in theory it sounds great until they have to wait two, three or four years for accommodation.

I'm suggesting that if the private sector was to do it, if it didn't have the spectre of rent control hanging over it and knew that the free market would allow it to build, then you would have the same situation that you have in areas of the province of Ontario where there are vast vacancies, where the rents are not anywhere near the amounts they could raise them by rent control, because they know the market won't allow them to get those rents in many instances.

**Mrs. Campbell:** I think the disability I have is that our definitions are different—

**Mr. Strom:** Mrs. Campbell, I'm sure they would be.

**Mrs. Campbell:** —and I don't think we can come to grips with it, because if we went to a free market, as I understand it, it would tend to level out the rents; at least that's what I understood the arguments to be. But, by your definition, that is not what is happening in Hamilton. You are saying that because they can't raise it six per cent, they have effectively lowered it.

**Mr. Strom:** What they've done is they have controlled the rents that they can charge by virtue of the marketplace. That's precisely the whole thread throughout my presentation.

**Mr. Charlton:** If that was happening, though, then the vacancy rate would be coming down, and it's not.

**Mr. Strom:** No, there's nothing to say that there would be—

**Mr. Charlton:** The point is that there is a difference in psychology here. I worked in assessment in Hamilton; I spent a year and a half working on an apartment project with two other people, so I talked to roughly a third of the landlords in the city, or their agents, whichever the case happened to be.

The comment one heard most frequently from landlords in Hamilton was that those who are sitting there with high vacancy rates would rather sit there at the higher rent with a high vacancy rate and carry the building that way than reduce the overall rents because it's easier to manage. That's unconscionable.

**Mr. Strom:** It's ludicrous—



**Mr. Charlton:** Sure, it's ludicrous.

**Mr. Strom:** Ludicrous is the answer. To me, that is not symptomatic of the industry.

**Mr. Charlton:** It indicates the marketplace isn't working.

**Mr. Chairman:** Excuse me, just a moment. Carry on if you want to carry on, Mr. Charlton, because you are on the list. Then you will be followed by Mr. Warner and Mr. Walker.

**Mr. Charlton:** No, that was something I wanted to get into because it came out before I got on.

**Mr. Warner:** I think this is the third time that the Unconscionable Transactions Relief Act has popped up. If the committee chooses to deal with the matter seriously, then perhaps we should have from counsel some history of the act.

**Mr. McAuley:** That's been done.

**Mr. Warner:** It has?

**Mr. McAuley:** It was considered in 1975, Mr. Warner. As presently structured, that act was rejected. An alternative deals with interest.

**Mrs. Campbell:** That's right.

**Mr. Warner:** Right, so it's a dead issue.

**Mr. McAuley:** It has been restructured. If you wish, you can pull the plug on it.

**Mr. Warner:** That's what I thought. I'm not the eminent counsel you are but it seemed to me, since it had been raised three times, it might be something the committee wanted to consider seriously. Obviously it's not worth considering; so perhaps we can just dispense with it now. That's fine.

I only had one other question from your presentation. I appreciate the fact that you are speaking on behalf of your group. It's a very large group and you've large holdings and you're presenting their side of the argument and their view. What bothers me is that as we've gone through this rent review process—and part of the job of the committee is to take a look at what's been happening with the process and whether or not it's worth continuing, rescuing and so on—is that it appears to me that there were quite a few buildings—and these were large buildings; they weren't small buildings at all—where it was extremely difficult to determine what the mortgage was on the building and how many times the mortgage had been turned over.

I don't know if you are familiar with the situation of the Bayview Mews, as I think it's called, in the Bayview and Sheppard area.

It has been there for a long time and the matter was raised in the paper. The buildings apparently had no mortgage on them. It had been paid off.

**Mr. Strom:** Mr. Warner, may I interrupt you?

**Mr. Warner:** Yes.

**Mr. Strom:** It's not Bayview Mews.

**Mr. Warner:** I don't know the name.

**Mr. Strom:** Bayview Mews has had a mortgage from the day it was built and still has one. It may be another building or you must have wrong information.

**Mr. Warner:** I am referring to those low-rise buildings, the whole string of them that run just north of the shopping complex.

**Mr. Strom:** That is correct. There is a mortgage on that property.

**Mr. Warner:** They received large increases. The owners wanted a \$50 a month increase. What the people there couldn't determine was the extent of the mortgage, how long it had to go, what the terms of the mortgage were, how many times it had been refinanced, and so on. Should that be public knowledge for tenants?

**Mr. Strom:** I don't believe so.

**Mr. Warner:** Why not?

**Mr. Strom:** I believe it is the same thing as—I'll equate it to going into Eaton's and buying a suit. There's a suit there and they feel it's worth the money or isn't worth the money. If they feel there's fair value there and that by dealing with Eaton's they will get satisfaction and get a level of service—for example, it will be fitted for them properly and it will be good material—then they will buy the suit at Eaton's. If they don't they'll go someplace else to buy it.

**Mr. Warner:** Aside from buying suits, because I'm not buying a suit, I'm living in an apartment, unless I can be shown otherwise, I'm wondering if I just might assume that the rent increase I get is helping to finance the development of some other building. It has nothing to do with my building and it has nothing to do with the structure I find myself in and the amenities which may be provided there and the maintenance, but it is simply being used to put up some other building. What I'm asking, and you've said it's not fair—

**Mr. Strom:** Did you ask me whether it was fair?

[3:45]

**Mr. Warner:** I asked you if it was reasonable to expect that the information about

mortgages, the terms, length and how many times whatever refinancing has happened, be public knowledge for the tenants of that building when they're trying to grapple with the rent problem? Surely, even in your own terms—you want to do away with rent review—in arbitrating the matter the tenant should have some idea as to why the rent is going up. In the case of those buildings I talked about later, the answer given was, "Because we decided to raise the rent." I don't think that's reasonable. That's why I asked—

**Mr. Strom:** It depends who the answer is given to, Mr. Warner. If you were asking the question, that's one thing; but if this mediation does come into effect, and it's a mediator—what you're doing is suggesting that this is what's going to happen—if it does happen and the mediator asks for this information, yes, that's information that he has to utilize in order to make a decision as to whether it's fair and equitable. I don't think anyone would take issue with that.

**Mr. Charlton:** But don't the tenants have to know, in order to know whether to say—

**Mr. Strom:** The fact of the matter is that in most instances I don't think the majority of the people that live in the building could know from all those things whether that rent increase was justifiable or not.

**Mr. Makarchuk:** The statements are such that he's right.

**Mr. Warner:** Yes, they're so confusing that nobody can figure them out. I realize that.

**Mr. Strom:** I don't think they're confusing at all, as a matter of fact. I didn't say they were confusing. I think that people interpret statements as it fits their own needs. I didn't say that they couldn't understand it.

**Mr. Makarchuk:** That's right, but people present statements to fit under their own needs.

**Mr. Strom:** Absolutely. I'm the first to admit it, sir.

**Mr. Makarchuk:** Okay, well that's—

**Mr. Strom:** As long as we're both being honest.

**Mr. Warner:** Would you agree with me that a group of tenants, or all of the tenants in a building, might be upset if they thought that the mortgage for a building had been paid off, and yet the rents were then going to escalate by a substantial amount of money, aside from the rent review program?

**Mr. Strom:** Mr. Warner, you're asking me a very theoretical question. I'm not prepared

to answer your question because it's a very theoretical one.

**Mr. Warner:** These are very real problems though, and they've been encountered—

**Mr. Strom:** Obviously, there could be a problem, sir.

**Mr. Warner:** I've encountered them in my riding on more than one occasion. Try to get answers! It's not easy. What happens, of course, is that the property is refinanced, so the developer, owner or whatever you care to call the person, can invest in some other property at some other location. Surely, the tenants then are subsidizing that developer. I don't think that's a proper use of rents. I don't think that's the business of the tenants.

**Mr. Breithaupt:** Are the tenants in a position then, if as a result of whatever the increase might be—say, from \$300 to \$400 for a unit—whether it's to completely relandscape the building, to subsidize it or another project, or to spend the money for any purpose, to have some decision-making power? Surely the landlord, in considering whether he can get \$400 per unit, is going to look at the market as it exists. The tenants are also going to consider whether they will look in the newspaper and find out if there are other units available to which they might choose to move. Are you suggesting that the tenants who are paying a monthly rental, compared with monthly rentals in other projects, have acquired some decision-making power as to how the owner is to use that financial project?

**Mr. Warner:** I think you're coming back to some of the comments Mrs. Campbell made before about the way in which a free market system should operate. Obviously, there are some questions about whether that's actually occurring and where it's occurring. But I'll put what I'm saying in very basic terms. If I'm a tenant in a building and I know that the building has been paid for, I would object to paying for the building a second time out of my rent so that the owner can build a building somewhere else. I don't object to the guy making a fair return on his dollar for whatever so-called risk he's taken in that building. It's "so-called risk" because normally there are some sorts of government subsidies that go along and so on. But I object strenuously to paying and having my rent used so he can build a building somewhere else.

**Mr. Breithaupt:** Why isn't your alternative not to pay that rent?

**Mr. Warner:** Because everyone else is doing the same thing, and you're left with very little choice as to where to go.



Mr. Breithaupt: That could well be the reason for that.

Mr. Warner: Then you're faced with a very severe problem.

Mr. Breithaupt: That's possible.

Mr. Warner: At the root of it all, unless I've missed it—and I would not put words in your mouth—but I would ask you to comment on it, because you have enough words of your own—

Mr. Breithaupt: I thank you very much, Mr. Warner—

Mr. Warner: —and they are quite elegant words.

Mr. Breithaupt: Thank you very much.

Mr. Warner: I take it that decent, affordable housing is a social right of human beings. We operate from that basic principle and we try to provide housing in many forms in as many ways as we can. If that accommodates the individual who wishes to build the apartment building and receive a fair return on his dollar, so be it. But I want to start with the first principle, as I have enunciated it. I am wondering if you could comment on that?

Mr. Strom: The people in this province have the best housing in the world; let's start with that premise, there is no doubt about it. In the majority of cases it is provided by the private sector. As long as the free market will prevail, this will continue to be the best-housed jurisdiction in the world.

Mr. Warner: Is it a social right?

Mr. Strom: That's for you, as a politician, Mr. Warner, to decide.

Mr. Warner: No, I asked you as an individual.

Mr. Strom: You're asking me and I'm not prepared to give you an answer because I'm not here to propound my philosophies. I'm here to suggest to you that if you want to have good housing in this province, the way to provide it is through the private sector. This has been the case up until this point. If you travel throughout the world you will find that the housing here is second to none. I suggest to you respectfully that it's been done by the private sector primarily. As long as we are allowed to continue to do that, we will continue to be the best-housed jurisdiction in the world.

Mrs. Campbell: Would you call limited-dividend private or public housing?

Mr. Strom: It's a little of both, Mrs. Campbell. There's an investment there. It may come as a shock to you but there are people who built limited dividends who have lost

money. There is no guarantee they will make money. The only thing that happens with limited dividends is that there is a maximum profit you could make. But there is no floor to say that you couldn't make less than that amount or you could make nothing.

I think that it's a kind of a partnership where builders built limited-dividends for whatever reason they had in order to get a maximum return, but feeling that with the rent levels that existed on many limited dividends they were reasonably assured of getting that profit, albeit a small one.

Mr. Warner: In partnership with the government.

Mr. Strom: That's correct, sir. There's no subsidy, there's nothing—

Mr. Warner: A financial partnership.

Mr. Strom: No, there's no financial partnership.

Mr. Warner: The mortgages—

Mr. Strom: They made the rules that allowed them to do it without any taxpayers' money whatsoever; they didn't come up with any money and to me that's ideal. I wish that was the case all over. Perhaps then this wouldn't perpetuate the kind of crunch we're faced with in the province for education and health costs and other things. People are too prone to say let the government do it. The government is us, the taxpayers, all of us. That is the government.

Mr. Chairman: We have two more questioners, Mr. Smith and Mr. Makarchuk. I would just take this opportunity to remind the members of the committee and our consultants that at the conclusion of the questions, we would ask that you stay behind. Also if the Hansard people would stay, we would like the first part of our following internal meeting to be covered, please. Mr. Smith.

Mr. G. E. Smith: Two very quick questions, Mr. Chairman. I believe that you inferred there was room for a tribunal or some body to resolve disputes between tenant and landlord. I think on page 38 of the green paper, it was suggested that the possible cost of such a tribunal might be borne by the landlord and the tenant, and it pointed out just how it might be done. Would you think this would be good, that the user pays rather than—

Mr. Strom: Mr. Smith, I must admit to you that I really didn't give it as much attention as it warrants. My feeling is that I would like to see it so economically simple that it wouldn't act as a deterrent to anyone to go, because I think that's the basis of the



whole thing. I think a lot of things get blown out of proportion; and I'm talking about disputes on a number of items, not only rent. It should remove any deterrent from two people sitting down.

**Mr. G. E. Smith:** Okay, the second very quick question is about the system in British Columbia. As I understand it, it is a best-offer system; I don't know if you're familiar with it or not.

**Mr. Strom:** I have some knowledge of it, not a lot.

**Mr. G. E. Smith:** Do you think that system has any merit for consideration by this committee?

**Mr. Strom:** It was my understanding that this alternative listed in the green paper is somewhat similar to the situation in British Columbia. Very frankly, I knew a little bit about it and that's where I got a little more information on it, and I must tell you I was quite impressed with it.

**Mr. Makarchuk:** It's too bad that you didn't give your presentation here last night or perhaps next Wednesday night when we have the tenants here. It would appear that you're talking in one world and they're talking in another world. The reality is just not here and I'm not sure where the reality—well, I am sure, but just who am I supposed to believe in terms of your brief? I didn't know that Attila the Hun still had his ghost writer around.

However that's beside the point. You say that builders can go ahead and put up units tomorrow. How many housing units do you feel they have available right now in Toronto; or the Metro area?

**Mr. Strom:** I can't answer that; on how many are zoned, I could find the answer. How many are zoned to proceed immediately, is that the question?

**Mr. Makarchuk:** That's right. In other words, you could go down and pick up a building permit tomorrow.

**Mr. Strom:** To pick up a building permit you'd need a set of plans. There's a difference between being prepared for land being zoned properly—

**Mr. Makarchuk:** Yes, I'm aware of all this, because I've had some involvement.

**Mr. Strom:** —I would say yes; I'm sorry, I didn't mean to—I just wanted to be sure you understood it, that's all.

**Mr. Makarchuk:** No, no; I understand, so I would just—

**Mr. Strom:** I would say that if I gave you a number it would be a dishonest one, be-

cause I don't know; but I could find out the answer and get it back to the committee—

**Mr. Makarchuk:** Would you, please?

**Mr. Strom:** —on the number of units that are zoned ready to go.

**Mr. Makarchuk:** The number available immediately, some that are waiting draft plan approval or something like that with the ministry, some for which services will not be available for another year. In other words—

**Mr. Strom:** I would suggest to you there's a substantial number of units that are not waiting for plans of subdivision but are strictly a rezoning; it could have been a downzoning that was holding the fort for a period of time until someone came in with a site plan bylaw. So in order to tell you a number, I don't think anyone could tell you that. I imagine many firms in the development business have land that is zoned for one use that should be zoned for a higher density. They would like to use it for the density, and once that would be resolved and there'd be no rent control, they'd build on that land. It's a good question, sir.

**Mr. Chairman:** Any further questions? Mr. Strom, thank you very much for your time.

If the people on the committee would be good enough to stay behind, we do have some business to discuss.

Ladies and gentlemen, the next portion of this meeting is going to be held in camera. Would the Hansard people be kind enough please to stay for the first part of it?

[4:00]

**Mr. Breithaupt:** Mr. Chairman, I think it is more correct to say that this portion continues publicly, in effect, to be recorded, because Hansard will obviously not make it an in camera meeting.

**Mr. Warner:** There's a distinction.

**Mr. Breithaupt:** But we do want certain items to be available on the record as we discuss matters which the chairman has, as I understand it.

**Mr. Chairman:** Everyone will receive two copies of letters from Mr. Feldman and a copy of the invoice.

**Mr. Warner:** I believe that each one of us has a copy of a letter dated April 24 from Lionel Feldman Consulting Limited to the committee and entitled: Consultants' duties and responsibilities. The two-page letter sets out the role of the consultants with respect to the work that the committee is to do. I think it is extremely important to go over this and take a look at it. I have a couple of questions which I would like to raise and have discussed, and I think it would be appro-

priate if Mr. Feldman could comment on the contents of the letter.

The first section simply identifies that the consultants should attend the committee hearings and analyse the submissions, and advise the chairman on questions to be directed to those making submissions.

I would think that it would be advisable that the questions be made available to each member of the committee. They may choose to disregard the questions or not to raise them, but the basic structure of the committee work as I understand it is that the committee works together to deal with an issue and not just the chairman. In the light of that principle I think it is important that whatever work the consultant does be made available to each one of us. Of course we may choose to ignore those questions—that is the business of each one of us.

**Mr. Epp:** If I may just speak to that, Mr. Chairman, I can appreciate what Mr. Warner is saying, and in principle I don't disagree with him. But I thought since Mr. Feldman was sitting beside you, or he could sit any place, and someone was presenting a brief, practically there is no way he can circulate this question. I thought this was in the context of the way it was going to happen—he was going to nudge the chairman and say, "Why don't you ask this or that?" rather than to have a lot of questions. That is my only point.

**Mr. Warner:** I saw it slightly differently in that we sometimes receive the briefs in advance before the people come in to make the formal presentation. What I thought this meant was that the consultant would take a look at it—

**Mr. Feldman:** Mr. Epp's interpretation is correct. What I have seen happening is that the overwhelming majority of the briefs only appear when we get here. If we could have a brief two days beforehand, we will certainly prepare questions and the chairman can circulate them. But it was designed to facilitate that sort of role on the spot. If perhaps the process were longer, or something else, you could do it the other way, which would be much more advisable.

**Mr. Epp:** I suppose, Mr. Chairman, it was so that rather than have Mr. Feldman to ask the people a question it was going to be a member of the committee asking the questions.

**Mr. Feldman:** My view has been that it would be inappropriate for us to perform the questioning.

**Mr. Charlton:** Can we just make it clear, though, that a question that is relevant to one

brief isn't necessarily irrelevant because somebody didn't mention it in their brief. For us to get the questions on record we can say that last Wednesday, for example, such and such was raised, how do you feel about it? So even if we don't get it on the spot, we get access to those kinds of questions and perhaps the rationale for the questions as well.

**Mr. Rotenberg:** I thought the question was being asked on the spot through the chairman as the neutral person on the committee. I mean, he doesn't select; he is just, as the expression goes, the mouthpiece of—

**Mr. Charlton:** No, all I'm saying is that the question doesn't necessarily lose its relevance after it's been asked the first time.

**Mr. Rotenberg:** Once the question is asked by the chairman, acting as the mouthpiece of the committee, then the question is the property of the committee because everyone hears the question.

**Mr. Charlton:** No, the point is that the chairman may not ask all of the questions which Mr. Feldman gives him.

**Mr. Rotenberg:** I thought he did.

**Mr. Charlton:** The point is that it wouldn't be all that difficult to circulate them thereafter.

**Mr. Chairman:** For example, today, Mr. Feldman had that lengthy brief from the University of Toronto people, and he did provide me with four separate questions. Our research people and our own caucus office also provided me with quite a pile of questions. In fact, I did use one of the four that Mr. Feldman did provide me with today—about the rate of return on mortgage rates.

If we're just talking about a simple mechanical thing, and I think we are, when you have had a chance to peruse a brief in advance, the questions might be prepared in that format. I think that's a useful format. They could also be circulated. I can see no problem with that.

**Mr. Warner:** We could perhaps see the questions you didn't get a chance to raise.

**Mr. Chairman:** Sure. There are several here like that.

**Mr. Warner:** In that way we may be able to make some connections with them. As you have explained it, that clears up my problem with that because I had interpreted it slightly differently.

I'm a little unclear as to the purpose of part two. By "on the direction of the chairman to provide the members with expert opinions and interpretations," do you mean only the direction of the chairman?



**Mr. Feldman:** Mr. Warner, I was trying to foresee a number of different situations. It seemed to me that if we are to serve the committee as a whole, and if the chairman is to be a neutral chairman, it is easier for me to deal with a request to provide work if that comes directly from the chairman. For example, if you have a question that you want us to do some work on, if you would relay it to Mr. McCaffrey and that comes through to us—or if you clear the question with him before—that is easier than my getting 16 phone calls every which way. At least, in that way, more than one of us has an idea of what is being asked. I was trying to provide a traffic cop role, if you will.

**Mr. Warner:** I don't know how much work you've done with committees. It's not necessary for me, as a member of the committee, to clear a question with the chairman. I simply raise the questions to the consultants and to legal counsel. That's my responsibility; it's not to the chairman.

**Mr. Feldman:** I appreciate that and one appreciates that when the meeting is in progress; when questions are raised, we take note of them. That's quite a different issue from you deciding tomorrow morning, all of a sudden, or Mrs. Campbell or Mrs. Scrivener, that you would like something done on thus or so. I was just trying to get a process whereby I got it through one channel.

**Mr. Chairman:** For example, Mr. Hall called me on Friday—and I assume he called you, Lionel—simply to ask if his particular query had been asked of Lionel so far. I said no, then he proceeded to call Lionel.

**Mr. Feldman:** I'm not trying to forestall anybody in anything. I would just like it to come through in some kind of process.

**Mrs. Campbell:** Rough chance of that.

**Mr. Feldman:** I suspected that.

**Mr. Warner:** Part three is "prepare draft of the report in accordance with the majority decision of the committee." I think Mr. Rotenberg can appreciate that there may be a desire for a minority report to be prepared. I think that we have encountered that in the company law committee. Sometimes that is just not by party but possibly by individual, because an individual member of a committee may have a particular strong desire that needs to be expressed by way of a minority report. If that could be understood to be part of the work as well, that's important.

**Mr. Feldman:** You want assistance then in drafting both the majority and minority reports.

**Mr. Warner:** If such is requested.

**Mr. Feldman:** I must admit that I've been trying to engage in a quick education process in the work of committees, and to that end I have visited the government book store to secure a number of reports of the other committees. I have noted that there seems in some of them to be a short majority position, and a much longer variety of dissenting opinions which vary from groups of people to individuals.

**Mr. Rotenberg:** Half of those books will be in your expense account. I think what he's saying is that he's noticed that on a particular point there may be dissent from a particular point rather than a total minority report.

**Mr. Warner:** Yes, dissenting reports rather than a minority report.

**Mr. Rotenberg:** Different points of views.

**Mr. Feldman:** That's fine. Presumably, we will talk at some point this afternoon about the mechanism by which this gets under way, because it does present some problems.

**Mr. Warner:** Yes. Then I move down to the bottom of the page, the last paragraph. It really falls in line with the one above it. I'm assuming from the remarks in the letter that you're aware of our June 1 deadline and that we had as a committee agreed we were going to spend X amount of time doing rent review and a smaller Y amount of time doing landlord and tenant. Then the housing aspect was relegated to later on.

I don't wish particularly to put you on the spot, but are you suggesting that the committee should then continue past June 1 and employ the services of the consultants?

**Mr. Feldman:** I'm not suggesting that at all. I was just raising another option, which has been foreclosed, because it is now May 3.

**Mr. Warner:** Right.

**Mr. Feldman:** There are three more meetings to deal with this issue. There will be literally no time to do this function. When this was put together, prior to April 24, it was as another legitimate option that the committee could make use of a consultant. I wanted it to be up front and to be discussed. I'm perfectly neutral as to what you want.

**Mr. Warner:** I think that the dating, the time factor here, is the operative thing.

**Mr. Feldman:** It obviates that. That one's out, I'm afraid.

**Mr. Warner:** The committee may decide on its final meeting prior to our deadline that they wish to recommend to the assembly that a committee be struck.



**Mr. Feldman:** That's a totally different issue and a totally different program. This was within the time frame and within the confines in which you're dealing.

**Mr. Warner:** Could I ask about something on page 2, the first complete paragraph, where you suggest a subcommittee be struck? Would you mind elaborating on the purpose?

**Mr. Feldman:** That is the only way I thought I could raise this issue of the mechanics of drafting the report because, as you're probably much more aware than I, according to the time table you have, the last meeting is on Wednesday, May 31, and on June 1, supposedly, you are to present your report to the Speaker of the House.

**Mr. Warner:** It will be a long night.

**Mr. Feldman:** It'll need much longer than just the 12 hours or whatever from 4 o'clock on.

**Mr. Chairman:** Is that 1978 and 1979?

**Mr. Feldman:** In one sense, my task is a little easier than Mr. McAuley's as I've set it out, because we at least have a two week period in which we can do some work at relative ease. Mr. McAuley is faced with the last hearings and then—

**Mr. McAuley:** A report for the next day.

**Mr. Feldman:** —a report for the next morning.

**Mr. McAuley:** It's impossible, to begin with.

**Mrs. Scrivener:** Could we just think in terms of our giving us a draft we can all go over and then come in and start pooling our attitudes and responses?

**Mr. Feldman:** Perfect. That is what I was trying to get at with this suggestion. I have heard nothing in your discussions—remember I was not privy to your earlier organizational discussions — as to how you had decided amongst yourselves to deal with the issue of the final report. I'm certain you must have, and committees obviously have to deal with this. There will have to be some in camera sessions in that time span, certainly after the hearings on rent review, to deal with these sorts of things or else we're working in an absolute vacuum.

[4:15]

**Mr. Breithaupt:** I think that perhaps the first item that could be resolved is that the committee consider asking, through the government House leader (Mr. Welch), for concurrence that our report be made to the Legislature by June 15, say, rather than June 1. We are certainly going to require several additional meetings after our last

public one on May 31. There will be a draft; and there will be various flurries.

I think it would be practical to deal with it now rather than to wait until the last meeting and then try to rush into the House and call attention to the fact that there is some great turmoil. We are looking at it seriously and, if you can call two weeks a long-term view, that might be something the committee might want to have some consensus on and, if so, you might wish to put forward on our common behalf.

**Mr. Warner:** I appreciate that. Before we get into the date aspect, and there's obviously great merit in doing that, the normal way in which the committees function is to have some draft form presented, as Mrs. Scrivener mentioned, so that each of the members of the committee can then peruse it; then to deal with it step by step, paragraph by paragraph, or however we wish to deal with it, and then the consultant comes up with the corrected final draft. That is done without the use of any subcommittee.

In order to facilitate that, I think we have a choice of either sitting at times different from what we have set out now or extending the time. The problem with the first is that of conflicting with the already busy schedule established for the assembly. The difficulty of the second, of course, is getting concurrence by the three parties; I don't have any objection.

**Mr. Breithaupt:** I don't think anyone else would fault us for requesting that.

**Mrs. Campbell:** Who dares?

**Mr. Breithaupt:** Anyone who wants to disagree can come on to the committee.

**Mr. Warner:** That's a good idea. That's called punishment. Do you think June 15 is worth going back to your caucus about?

**Mr. Chairman:** I am just naive enough to ask this kind of a question: The directive to us from the Legislature said June 1—

**Mr. Warner:** I know.

**Mr. Chairman:** Can the government House leader say June 15?

**Mr. Rotenberg:** It requires a motion in the House.

**Mr. Warner:** It requires unanimous consent.

**Mr. Breithaupt:** He would make a motion to the effect to regularize it properly, of course.

**Mr. Warner:** It requires consent of the House; that's all.

**Mr. Breithaupt:** It would do, yes. But that seems a practical approach if we are not going to have the time to do it.

**Mr. Rotenberg:** It should be raised with the government House leader, who would raise it with the other House leaders.

**Mr. Breithaupt:** We should get on with it early.

**Mr. Warner:** I'll raise it with our House leader through the caucus, and we'll see what happens. I appreciate the suggestion by Jim, because I think that is a practical way to deal with it.

**Mr. Breithaupt:** There's a House leaders' meeting tomorrow, so perhaps they can resolve it then.

**Mr. Feldman:** Could I raise one other question consistent with that? It would be of enormous help to us if it were possible, after the 17th, either on the 18th or the 19th, if the committee could meet in camera to give us some general guidelines so that at least we know what issues it is that you have a consensus on and what it is that you do not. Otherwise, on this kind of an issue, with respect, I think you are asking us to start from a zero base, and at the end we'll still be at zero base.

**Mrs. Scrivener:** All the patterns will have emerged by then; we can probably agree on some particular highlights, and you can get on with the preparing of the report.

**Mr. Feldman:** I don't care whether it's overwhelming one way or another.

**Mrs. Scrivener:** A great deal of what you will be hearing from now on will be quite repetitive, I think.

**Mr. Breithaupt:** Mr. Chairman, I would like to make a motion that the chairman be instructed to approach the government House leader and inform him that it is the consensus of the committee that the reporting date be June 15 rather than June 1, and that this matter be considered at the House leaders' meeting tomorrow, with the appropriate motion to be made in the House.

**Mrs. Campbell:** And be sure just to say the reporting, because I think we've got to forestall, much as I regret it, lengthening the time for open meetings. That is not the purpose of it.

**Mr. Breithaupt:** Oh, no.

**Mr. Rotenberg:** Tomorrow's House leaders' meeting may for some reason not come up. Just give it to the chairman to go to the House leader. If it goes to the House leader's meeting next week there's still plenty of time.

**Mr. Breithaupt:** It just takes a minute. I would think that if it did come tomorrow morning they would get on with it and the earlier we do it the better, in my view.

**Mrs. Scrivener:** If it could be done, it would be somewhere around the 17th or 18, could we leave it to the chairman's discretion?

**Mr. Rotenberg:** I think what Mr. Feldman is getting at is that after the 17th when we have dealt with all the rent review matters and before the L and T matters, we should do that.

Might I suggest to you that arising out of both the presentations and the discussions and the drift you are getting from the members of the committee, you might prepare some options of directions the committee might take. I think what you are really trying to get is a consensus of the committee. I don't think we're ever going to get the committee agreeing on this thing. A majority and minority view of the direction the committee might take. You can at least start off with discussions of what the conclusions are going to be.

**Mr. Chairman:** I think there is consensus on that, and we'll come back to it if not. But there is a motion on the floor.

**Mr. Rotenberg:** I'm sorry, I thought the motion was agreed to already.

**Mr. Warner:** Just one question, we are assuming that the House will not rise until after June 15?

**Mr. Breithaupt:** It was my understanding that June 23 was the expected date.

**Mr. Warner:** Okay. I just wanted to clear that.

**Mr. Rotenberg:** June 15 is a Thursday?

**Mr. Breithaupt:** Well, I just picked the 15th—

**Mr. Rotenberg:** I think we're safe for the 15th, from what I can gather.

**Mr. Feldman:** It's a Thursday.

**Mr. Chairman:** So that motion is agreed to by everybody.

Motion agreed to.

**Mr. Feldman:** I accept your point very well. Also, there are bound to be some issues that arise out of the landlord and tenant sections that are going to spill back over into the rent review.

**Mr. Rotenberg:** At least after this part is done we can get a start on the report.

**Mr. Feldman:** At least I am trying to get some kind of a start so we can get moving along.

**Mrs. Campbell:** If we have a meeting following the 17th, it would seem to me at that point there would be at least something to report on the other two issues. Because I assume we are covering the waterfront in the

meetings that are out of Toronto; we're not just confining ourselves to rent review. So there may then also be at least points of view that you could work on while we progress through the others, or whatever is called.

**Mr. Feldman:** Precisely.

**Mr. Breithaupt:** I presume, Mr. Chairman, that completes the matters then with respect to this item and the meeting can be formally adjourned.

**Clerk of the Committee:** I would just like to know the names of the people from the government side and where they are going to go—Ottawa? I think the chairman is going to go to Ottawa. Can you find that out from some of your people, from the government members, and then you have members from your party, do you not?

**Mr. Rotenberg:** Is the 17th the travel date?

**Mr. Chairman:** The 17th is the day.

**Mrs. Campbell:** What is the time frame for the meetings on the 17th?

**Clerk of the Committee:** In the paper it's from 9 o'clock in the morning.

**Mrs. Campbell:** That would mean that we would have to leave for the most part the night before.

**Clerk of the Committee:** Yes. I guess before you came in, Mrs. Campbell, it was suggested that we should be available in the evening. That would mean that you may have to stay overnight as well in some of the spots. As I recall, you were going to Ottawa, Mrs. Campbell.

**Mr. Breithaupt:** No, Mrs. Campbell is going to Sudbury.

**Clerk of the Committee:** Sudbury. That's right.

**Mr. Chairman:** Mr. Hall is going to Ottawa.

**Mr. Warner:** I'm going to Thunder Bay.

**Mr. Epp:** I just changed my mind.

**Mr. Warner:** I may conduct the hearing by myself. I can see that coming off.

Brian Charlton's going to Sudbury. Mr. Duksza is going to Ottawa.

**Mr. Charlton:** I think Mr. Duksza is going to London and either Mr. Makarchuk or Mr. Samis is going to Ottawa. I'm not sure; we should double check that.

**Clerk of the Committee:** Okay, that's close enough anyway.

**Mr. Warner:** If there's a change I'll let you know. I'm pretty sure that's it.

**Mr. Feldman:** I wonder if I could get some direction from you ladies and gentlemen on this point. Would you like me to provide somebody at each of the four meetings? I'm certainly prepared to. I think there is some advantage in it, but I don't know what other constraints you are facing.

**Mr. Warner:** I think it's important in terms of the rather unique way we were approaching this that if we are going to have four centres, we have to deal with them in an equal way. I think that means one person from the consultant's side at each of the locations. I don't know how else we can handle it.

**Mr. Feldman:** That is the presumption I was working on and we will move towards that area.

**Mr. Chairman:** That brings us to the second part, the budgetary part of our meeting, doesn't it? Can we proceed on that without Hansard?

**Mr. Warner:** Yes, I would. We will adjourn the meeting.

**Mr. Chairman:** Okay. Thank you very kindly.

The committee adjourned at 4:25 p.m.



## SPEAKERS IN THIS ISSUE

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**Witnesses:**

Schwartz, J., President, Multiple Dwelling Standards Association  
Strom, R., Urban Development Institute

**From the Ministry of the Attorney General:**

McAuley, V. F. S., Counsel

**Assisting the committee:**

Feldman, L. D., Lionel D. Feldman Consulting Limited, Toronto









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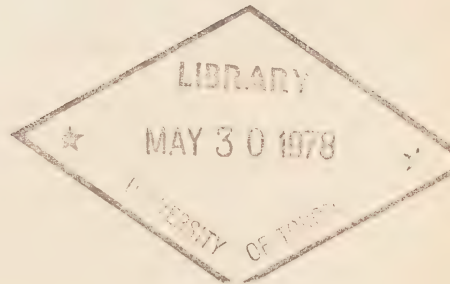
No. G-12

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### Second Session, 31st Parliament

Wednesday, May 10, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 10, 1978

The committee met at 10:10 a.m.

## TENANT PROTECTION

(continued)

**Mr. Chairman:** We have a quorum. Just to clean up a couple of matters, the clerk is now distributing two things; one is the committee's budget. I would like you to peruse it if you would, please. The Board of Internal Economy approved our budget on Monday evening. I would like you to have a copy of it. The other is a list of questions that have been prepared by Lionel speaking to the HUDAC brief. So peruse those too if you can.

We've got two replacements on the committee. David Rotenberg is replacing George Ashe, and John Williams is replacing Albert Belanger. I heard some of you this morning talking about travel arrangements. I think it would be in everybody's best interest if they could be finalized today so that our clerk can get tickets and make final bookings when necessary.

**Mr. Breithaupt:** Mr. Chairman, do you wish to have a motion formally adopting this as our budget, or do you feel that the fact that it has been approved by the board makes that unnecessary?

**Mr. Chairman:** I think a formal motion would be useful. The only reason I didn't raise that is no one has had a chance so far to look it over, but glance at it if you can and I would be happy to hear a motion. The Board of Internal Economy suggested at the meeting on Monday that henceforth it would be wise if all committees did submit budgets and have the committee cognizant of where the hell the money is going.

**Mrs. Campbell:** Seems to me useful.

**Mr. Chairman:** Me too. I think it is a good policy.

**Mr. Breithaupt:** The members of the committee might wish to know that the figures were not just sort of pulled together out of thin air. Mr. Warner and the chairman and I attempted to draft up some figures because we had to have them immediately for the board. That is why the members hadn't seen them beforehand. That's the only reason that happened. I will be happy to move that the

item before us be approved as the budget for the committee.

**Mr. Walker:** It already has been approved.

**Mr. Chairman:** By the board, yes.

**Mrs. Campbell:** It hasn't been approved by the committee, and I think we all should get into the habit of seeing budgets and approving them, so that the next time around the budget going to the Board of Internal Economy will be the committee budget for which we all assume responsibility. I think that's a useful procedure and I can't understand why it hasn't been followed in the past.

**Mr. Chairman:** Right.

**Mrs. Campbell:** It is not peculiar to this committee.

**Mr. Chairman:** Oh no, far from it.

**Mr. Breithaupt:** It is just peculiar.

**Mrs. Campbell:** Mr. Chairman, could I have a question on this budget? Do I take it now that this budget is the complete budget to take us through to June 15?

**Mr. Chairman:** Yes.

**Mrs. Campbell:** It doesn't say so.

**Mr. Chairman:** I take it that way, subject to small last-minute changes. I can't think of one. I think the answer to that question is yes.

**Mrs. Campbell:** Thank you.

**Mr. Williams:** Put it in a motion.

**Mr. Chairman:** Can we have a motion?

**Mr. Williams:** Amend the motion accordingly.

**Mrs. Campbell:** Amend the motion accordingly to indicate that this is a complete budget?

[10:15]

**Mr. Breithaupt:** My motion is that it be the budget of the committee; if you wish to have that added, to "June 15," I am happy to do so.

**Mr. Chairman:** Okay, there is a motion on the floor; is it seconded?

**Mr. Makarchuk:** I will second it.

Motion agreed to.

**Mr. Breithaupt:** Mr. Chairman, before you proceed, there were just four items that I thought might be of interest to the members



of the committee in case they hadn't seen them. One is a news release from the Ministry of Housing with respect to the continuation of the Ontario Home Renewal Program that members, or our consultants, perhaps should be aware of.

Secondly, there is a recent article in a weekend paper with respect to housing costs in some United States cities and Canadian counterparts.

Thirdly, I was wondering if members were familiar with the Ontario Economic Council report in 1976 on housing. There is some useful information in there that members might not have been aware of.

The fourth thing is that I noticed there had been a number of comments made with respect to the vacancy rate for apartments in the Hamilton area. I was wondering if you had asked, or our consultants had on their own inquired of the various groups in Hamilton as to whether that vacancy rate is as high as we are told and what the sort of background involvement is on it.

**Mr. Chairman:** I have been trying to get some information on it and will continue.

There are just two or three fast items, if I may. I mentioned the travel arrangements. Breakfast meetings: We do have to get together, it seems to me, at least once before June 1 in order that the consultants can start to draft a rough report to get some feel as to where the heck we are going to go on this. The calendar is a problem for everybody, but we would like to have a breakfast meeting in the building—I am not sure it will be this room—about 8 o'clock on the morning of Wednesday, May 24.

**Mrs. Campbell:** Mr. Chairman, I don't have my calendar with me. Do I take it that this will be circularized and we'll get a notice?

**Mr. Chairman:** Okay. Breakfast at 8 o'clock, Wednesday, May 24. This brings me back to my last question, and a personal problem. As a Metro member, Wednesday is traditionally the one night that I do constituency office plus other things. I have a long standing commitment in addition to the constituency office tonight in the riding. I have talked to a couple of people to see if someone could take the chair tonight. Other people have other problems but is there someone on the committee who could help me tonight? I cannot be here.

**Mrs. Campbell:** What about Gordon Walker? I thought he did a tremendous job the other night in moving the items along.

**Mr. Walker:** Thank you, I am otherwise committed, at least until 8:30.

**Mrs. Campbell:** I have a commitment too that is long standing. I am going to have to cut it but I will be late.

**Mr. Duksza:** So will I.

**Mr. Breithaupt:** If you wish, Mr. Chairman, I will take the chair at 7.

**Mr. Chairman:** Thank you very much, I think that covers everything. Mr. Kain is here, Mr. Clarke of Parkdale Tenants, Mr. Collins from HUDAC, and Mr. Brown from 3892 Bathurst Street Association. However, we have a cancellation. The group that was to appear at 11:30 did cancel. Let me jump to the afternoon and see if we could perhaps move one of the afternoon people, if they are here, to this morning. Mr. Lang, the Tenant Hotline, Mr. Duffield. Well, we'll play it by ear as we go along.

**Mr. Kain:** If you would be good enough to approach the microphone and just identify yourself.

**Mr. Kain:** My name is Albert Kain. I represent a small group of about 10 people called Downtown Tenants. If you will turn over the page, that is a presentation made yesterday to the city of Toronto. I would like to repeat it here for your benefit too.

I made a presentation and I would like to present it in the memory of a Lieutenant Governor of Ontario, Mr. Bruce, who was Lieutenant Governor of Ontario between the years 1932 and 1937. The year 1934 was a centennial year for Toronto. On that occasion, the Lieutenant Governor of Ontario established a committee after an argument with members of city council about the housing conditions in Toronto. That report of the Lieutenant Governor's committee is the yardstick I would like to use to measure the continuous protection for tenants report of the present government.

Where I talk about Lieutenant Governor Bruce I have to realize that I have to call back the days of the hungry '30s and old Toronto, which was not bad yet, and the Protestant puritanists. I think Bruce's position taken in that paper was based on the outpourings of the situation of the poor on one side and the dislike for the greedy on the other hand. It was Mr. Bruce who was Lieutenant Governor of Ontario, representing those very few people of outstanding qualities who were making the Progressive Conservative Party originally a driving force which was able to stay in power ever since, and probably turning progressive as a victim of progress.

The Fraser Institute produced in 1975 a book entitled, Rent Control: A Popular Paradox. In that book you find a statement about

the role of pressure groups and governments giving in to them. Our society is based on the adversary principle, and in a society which is based on the adversary system the legal and political interaction between citizen—be he individual or corporate—and the state takes the form of citizens presenting their case and debating for a decision to be arrived at on that basis. That is a very good process, and I think it should be kept that way.

I would like to talk about one thing. During the hearing you were talking about what has happened elsewhere. There is a little booklet: *A Bird's-Eye View of the Greater Vancouver Housing Scene* in which some very interesting statements are made. It says that in 1971 the population of Canada was 21,516,000. "Assuming four people per house, and the very low density of four houses per acre, it is possible to shelter the entire population of Canada in single-family homes on 60 x 124 foot lots on normal city streets all within a circle of a radius of 25.8 miles. Nevertheless, in each of Canada's major metropolitan areas there is a shortage of land for housing. The only possible reason for this artificial shortage of land is the restrictive effect of the provincial and municipal laws, bylaws, development policies and procedures."

In another place it talks about the land developer constantly being harassed, that he is rarely in a position to defend himself because he is frequently financially locked into his property and, therefore, at the mercy of council and the special interest minorities. It goes on to state: "Perhaps the developer's situation is self-inflicted, because there is no doubt that there have been and will continue to be a few bad or greedy developers."

"Historically it has been the tendency of our society to correct the ills of the past by creating laws to make it more difficult or at least more dangerous or expensive to perform the same misdeeds in the future. Unfortunately, the rules and regulations that have been instituted to control the real or imagined abuses perpetuated by the housing and land development industry in the past have completely strangled the production of affordable housing." And we agree with that.

There is a section about the role of planners. "Unfortunately, planners as a whole have also made a much larger contribution to the problem of housing costs. In their attempts from on high to bring order to our little world below, they have so restricted the supply of land available for development as to create the most rapidly increasing prices of lands for residential use of any place on the North American continent.

"Ten years ago a serviced lot in the greater Vancouver municipality could be acquired for \$1,500. Now the minimum price is in the \$23,000 range. Prices of \$35,000 and up are common. A very small lot in Vancouver city itself can cost an incredible \$45,000 and condominium land costs upwards of \$12,000 [inaudible]." Those are facts which are affecting us in Toronto too.

Unfortunately, innovation means change, and change means problems for those responsible for the operation of the system. Problems in turn cause delays, and delays cost money. Which means that the innovator is frequently penalized for his trouble. To be innovative does not necessarily mean to make more money; although, hopefully, in any other work category there is some reward for doing a better job. But it is sad and true that although many innovations are intended to combine reduced cost and increased availability there is absolutely no incentive to be creative in our [inaudible] development system.

[10:30]

The government green paper talks about the fact that in Canada and in Ontario it has not been necessary for major government intervention in a free market system since the end of World War II. I think it is worthwhile to recall that era. The foundation for that era was laid in the movement of social action in Ontario which was started by the Bruce report and Lieutenant Governor Bruce, under whose wings Fabian socialists or people farther on the left were probably operating better in the early 1930s and late 1940s or probably early 1950s; those people like Professor Harry Cassidy or the still-living Professor Eric Arthur under whose direction reconstruction was carried out after the second world war. Many people are still around living in those houses and they are satisfied. If I pay a tribute to them now I do the only thing which would be righteous because we talk of an era where we Canadians are under enormous stress and duress. And that was the situation during the post second world war era. That is why all Canadians pulled themselves together and put the brakes on and put control on the greed born into people; and for that reason we have the city of Toronto as it is today. I think many of us would agree we would like to keep it that way.

Now I want to go over what the Bruce report stated about the land value and its effect on the provision of housing. I don't want to read the whole report, because you have it before you.

As the speculator entered the field of real estate—and speculative house and land buy-



ing has been the norm for a good decade—it meant we couldn't provide housing, not only for the poor and working classes but even for the middle classes. The process we witness today I would call expropriation of the middle class. If that process goes on uncontrolled we would have the kind of situation which we read about in Italy or in other places in the world today.

I compare that statement put forward by the Bruce report with the statement in the green paper which talks about the market value rise in the units from 1967. It's pure [inaudible] and—I hope you will excuse me—pure garbage, because no capital gains are made from a growing market value. Capital gains are made only when somebody sells the property. If a person doesn't sell the property there is no capital gain. That's on page 11, if you want to look at that.

It's the silliest thing. It says that in the past capital gains may have been the result of anticipation of higher levels of profit. What does a capital gain have to do with anticipation of higher levels of profit? I am at a loss for an explanation of that. And it would be wrong to project capital gains of this magnitude into the future. How do you project capital gains? If you invest money and speculate you hope for capital gain. You couldn't project it into the future. You could project it if you were a planner, you could project that the Ministry of Housing would produce so many units. But with investment you don't project capital gains because capital gains would be only achieved by selling the property.

Now, there is another nicety. On page nine of the green paper: "... increased demand and falling vacancy rates on rents appears to have been quite sluggish in the early 1970s. This may have been the result of the tendency of many landlords, especially of small buildings, to maintain rents at low levels for any one of several reasons: a desire to retain existing tenants, the existence of multiyear leases; a concern for low-income tenants; or a limited interest in purely economic motivations." What does that purely economic motivation mean? Could anybody explain it to me? It's silly.

"Given this incidence of low or no increases, other landlords may also be restrained from increasing rents because of tenant resistance to rents substantially higher than those elsewhere in the community. This further adds to the sluggishness of adjustment of rent levels." Here is the reasoning why an adjustment from the real value to the speculative value did not go on and grow in a more spectacular way than it did.

Our concern is that the government thinks that speculative profits are justified; in our opinion, the report could be wrong, but the report intends to say only that.

The green paper, on page 17, talks about "the 20 and 30 per cent experiencing some degree of affordability problem in 1974." It talks about those people who retain their position compared to their income and the rent they pay.

I don't know whether that is right or not, or where the 20 per cent figure originates. If I go further in that, the report says that the rent review legislation is not structured to consider the relation of an individual's rent in relation to income, and then it says that "it should be noted that . . . 70 to 80 per cent of tenants who do not have affordability problems have also benefited from rent review. While these people are undoubtedly appreciative of their financial saving, this aspect of the program involves, in effect, a transfer of income to individuals . . ."

If the whole thing were based on the fact that the individual's ability is not considered, how does that statement come around? I don't know. I doubt if there is a question of income, as I understand income—where a return on investment is profit. Nobody calls it income. How could you flip it over a profit to income? I think that explanation is based rather on [inaudible]. Many of you come from rural areas. You could probably recall the problem regional government has caused and it is, in my opinion, one of the reasons that we have a minority government today.

No legislator in Ontario would put into law minimum wages for farm workers. The federal government—

**Mr. Chairman:** Mr. Kain, if I could just interrupt for a moment. This is interesting but it's just getting a little bit off your brief. We're a little past the half way mark in the time allocated to you, with other witnesses to come. I know there are people on the committee who would like to ask some questions specifically on your brief. If you could, perhaps, just address yourself to your brief so that there can be an exchange of ideas.

**Mr. Kain:** Okay.

As the act did exempt rental buildings first occupied after January 1, 1976, it should not, in theory, affect new rental construction. The reality is that if anyone takes into account the recent trend in industry—named, aptly, supply management—new rental construction would not incur until the slack is taken up, which might take a long time, if the fact is considered true that "a significant number of rental households are in what is



normally thought to be ownership types of housing," and "a third factor behind the demand for rental accommodation was the increase in ownership housing prices relative to incomes," if this is valid then we would have no construction for a long time.

I would skip some sections here because I think you can read it as well as I, or even better.

Looking at the rent review program, I would like to ask you to look at it as a part of the housing industry. As it says on page four: "It may be discerned that consideration of policies for the continuing protection of tenants should encompass concerns for the overall performance of the housing sector and landlord and tenant law, as well as the regulation of rents."

I would like to call to your attention that there is an oversupply of overpriced housing because people are not able to afford to buy. I would like to ask the committee to convey our request that action be taken and convey the request that if further actions are taken, independent bodies like royal commissions should do the inquiry instead of government agencies. That's the end of my presentation.

I feel funny that that paper was prepared by the executive director of the rent review program and not an independent body. It is too pat. There is no division of power. It's like the Ministry of Justice and the Attorney General's department being one unit.

I'm saying that a division should be maintained. A royal commission or something else should be established, and until that time, rent controls or a rent review process should be maintained. I don't want to read out my proposition. Any member can see there are some mistakes in it, but if you read it you will understand it. I would rather ask questions than take up the time of the committee.

**Mr. Chairman:** Mr. Kain, thank you very much. Are there any questions? Mrs. Scrivener.

**Mrs. Scrivener:** On item 2 of the recommendations, how did you arrive at a figure of six per cent vacancy rate as an area where you cease rent controls?

**Mr. Kain:** I made a comparison with the Unemployment Insurance Benefits Act. The six per cent was a middle way rate based on a recommendation in the Unemployment Insurance Benefits Act. It's the committee's or the government's decision as to whatever rate is established. I couldn't say what rate should be established. It was an idea. I thought that was a fair amount of housing which is ready for rent.

**Mrs. Scrivener:** I also see that you have some liberal references to the old Bruce report.

**Mr. Kain:** Yes.

**Mrs. Scrivener:** Where did you find a copy of it? There aren't many of those.

**Mr. Kain:** In a municipal library. I would suggest that the government of Ontario reprint that for the benefit of the citizens of Ontario. They could learn a lot of history and heritage.

**Mrs. Scrivener:** It's just that it's a classic of its kind. So many of the things that have been recommended by him have already been done.

[10:45]

**Mr. Kain:** I am not saying that you are right or wrong in that. I am talking of our historical heritage. It means that we could make the comparison and understand that in the hungry '30s landlords didn't get enough rent to pay the municipal taxes. It's in the report. I don't want to put it before you. Anybody who sees it would understand the progress we made. The person understands why the Conservative Party was in power for that long period of time.

**Mr. Chairman:** We have a few more minutes. We have questions from Mr. Duksza and Mrs. Campbell and I think that would take us to the end of the 30 minutes. Mr. Duksza.

**Mr. Duksza:** On your first proposal. What is allowed now is the statutory across-the-board increase of six per cent to allow for inflationary increases?

**Mr. Kain:** Yes.

**Mr. Duksza:** But when you appeal, it's usually 12.5. In your opinion, if you introduced your approach, what would be the increase?

**Mr. Kain:** The increase would be the actual cost. In my opinion, because of the speculative pressures on the land crisis, the price of the land is out of sight. It means that to bring down those land costs, to bring down the speculative value, we have to ensure that the rewards are lower but I don't agree with the report that if you're allowing investment then housing will be built. If you're allowing investment that means that they will build housing at a higher price and hope for higher returns. You know what's happening; somebody has 10 per cent or less to put down and has a host of mortgages. Try to evict those tenants; it's that section I'm talking about. They asked for tenant protection that tenants shouldn't be evicted [inaudible] repairs and housing standards appeal boards here.

**Mr. Duksza:** It should be costs for improvements et cetera, and not the mortgaging or what's caused by financial passthrough. Which costs are you talking about?

**Mr. Kain:** I am saying improvement of the property in the owner's interest. I was talking about inflationary costs like the cost of oil, labour, et cetera. Everything else should be disregarded until the speculative prices are broken down.

**Mr. Duksza:** You're basically saying that the only things that should be allowed to pass through are basic improvements.

**Mr. Kain:** Maintenance costs divided; not computed on a percentage basis but divided between the units. That means that we could cool the heat which is in real estate today.

**Mr. Duksza:** Thank you.

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** I'm interested in many of your proposals because I think they are addressing themselves to some of the specific items that we have to wrestle with.

I note that in your proposals you seem to want to see the rent review process in the hands of the local municipalities rather than as a provincial body. Are you suggesting that the rent review process be continued in the same form as we have now, or are you suggesting that there might be some other form of tribunal set up to administer it?

**Mr. Kain:** Let's put it straight. There are bachelorettes and other things that come under community pressure.

**Mrs. Campbell:** I'm quite aware of them.

**Mr. Kain:** And the community pressures are immense against that type of downgrading of residential areas. One of my positions was that property owners' and tenants' interests are basically the same. Nobody likes landlords, let's put it that way. When we put down the process of rental review in the municipality we are given an opportunity to put to light the injustices and the demands and to educate people. What I was suggesting, the committee of appeal . . .

[Interruption in recording]

**Mrs. Campbell:** . . . period of time was appearing before the rent review board.

**Mr. Kain:** I am honest with the people I talked with. Probably that's your experience too, that people don't go to the rent review boards and the number of appeals is sliding down because one party does not understand the procedures and the other party is unhappy with high settlements provided by the officers. There are many other reasons, as you know better than I do.

**Mrs. Campbell:** The reason I asked that is that it seemed to me from what I've observed in Toronto that there is a change in their procedures and policies. When this first started, they seemed to try to accommodate the tenants to enable them to be present and held some of their boards at night so that tenants could come. Mr. Gordon Batchelor the former clerk of this city of Toronto, seems to have reversed that procedure and is taking a very hard line in ensuring that they do not sit at night. That's the kind of thing I wanted to hear from you. You haven't been before it over a period to be able to assess that.

**Mr. Kain:** No, no.

**Mrs. Campbell:** And, finally, in the middle of your brief, and I'm sorry I can't find it again, you seem to say that the only real solution to all of this is more what I would call assisted housing or public housing.

**Mr. Kain:** No, no, I think that's a misunderstanding.

**Mrs. Campbell:** I wondered about it because it doesn't show in your recommendations. That's my faulty reading, I guess.

**Mr. Kain:** No, I think that what you read is in the Bruce report, and my quotation from the Bruce report. I was saying that slum housing is overpriced housing and that now with the return on speculation is that all housing is overpriced housing with only one distinction between slum housing and housing that is in a state of bad repair, too.

**Mrs. Campbell:** I think it's interesting to all of us that as a result of the Bruce report that we had our first public housing in Canada—

**Mr. Kain:** Exactly, in Regent Park.

**Mrs. Campbell:** —and that was in Toronto, as a plebiscite of the people. Thank you, Mr. Chairman.

**Mr. Chairman:** Thank you, Mrs. Campbell. Mr. Kain, thank you very much for your time.

**Mr. Nelson Clarke,** representing the Parkdale Tenants Association.

**Mr. Moritz:** Mr. Chairman, members of the committee, ladies and gentlemen, fellow tenants and others. My name is Albert Moritz. At the Parkdale Tenants Association executive meeting because of the absence of our chairman I was elected to say a few words about the Parkdale Tenants Association and Mr. Clarke will present our brief.

The Parkdale Tenants Association was formed in approximately 1972 by some tenants in the Parkdale area who were exploited by various landlords. If they went to the landlords asking for repair jobs, the landlords said, "If you don't like it, move out." If



they didn't move out, two months later they received two or three days' notice "that your rent will go up \$20 or \$30." We found it completely unacceptable so we tried to organize a tenants association in the area and we were quite successful. The Parkdale Tenants Association fought, with the Federation of Metro Tenants Associations, to do something and protect the tenants and we were quite successful to have the Landlords and Tenants Act.

In the Parkdale Tenants Association there are individual tenants from different buildings. It is not an association for one building. It is an association which covers about 30 buildings and from some buildings we have one or two tenants as members of our association. In some cases we have 20 or 25 tenants from the same building.

Our aim is to have tenant associations in most of the buildings in the Parkdale area if not in all the buildings. If we have tenant associations established in buildings, then these tenants associations join our Parkdale Tenants Association.

We charge a \$3 membership fee. If there is a tenants association in that building, we rebate \$1 to the tenants association. We give \$1 to the Federation of Metro Tenants Associations and we keep \$1 for our expenses, which is mostly for postage.

Last year we had 211 members. This year, so far, we have 160 members. I have to emphasize that we are not going out and knocking on doors to solicit for membership. These 160 members who are new members or renewed last year's memberships came to us and told us they wished to be members or wanted to renew their membership. So I repeat, we are not soliciting memberships.

In the recent past, our biggest effort was put to organizing meetings in different apartment buildings and explaining to our tenants the Landlord and Tenant Act and the rent review act. On March 13, Mr. Robbins attended our general membership meeting. He said it was the first meeting he had attended called together by tenants. A few weeks later we had meetings in eight apartment buildings to explain to the tenants what was in the position paper that some people called the green paper. Some people call it the orange paper; I call it the Conservative blue paper.

We have a newspaper which comes out almost regularly once a month in 5,000 copies. We distribute about 4,000 copies in different apartment buildings to individual tenants. We slip it under every door and we distribute the remaining 1,000 or so in different stores because the owners are friendly to our cause,

and everybody who goes into the stores can pick up one copy. It is completely free.

The Parkdale Tenants Association had considerable influence in the last two provincial elections. At this moment in our area we have two very sympathetic members. We helped them to be elected and they give us tremendous help in our fight against the landlord for the interest of the tenant. Thank you.

Mr. Chairman: Thank you. You mentioned that Mr. Clarke would be available later. He's here now? Excellent.

Mr. Clarke: I will endeavour to summarize this brief as much as I can, Mr. Chairman, to submit it on behalf of the Parkdale Tenants Association. I should make it clear right at the beginning that the Parkdale Tenants Association is an affiliate of the Federation of Metro Tenants Associations, as Mr. Moritz has said, and has worked throughout its existence with the Parkdale Community Legal Services. We wish to go on record here as endorsing the presentations which have already been made to this committee by both these bodies. We will not repeat here many of the points which these presentations have already made.

We would like to focus, to begin with, on two problems that are of great concern to the tenants we represent—poor maintenance and disrepair, and disparity in rent levels within buildings. It is not our impression that the quality of services and maintenance is not deteriorating. I notice that the green paper suggested only 15 per cent of renters surveyed felt that the quality of services was deteriorating. We find in our experience in Parkdale that it is deteriorating. In building after building tenants voice complaints in respect of one or more and sometimes nearly all the following matters: Hallways and stairwells are not being kept clean and lights are not being replaced. Garbage rooms are not properly looked after; cockroaches and mice are on the increase. Washers and driers and laundry rooms don't work. Many apartments are frequently cold in the winter. There is an inadequate supply of hot water. Minor repairs in apartments are unattended to. Elevators are constantly breaking down. Security systems are inoperative both at the entrances into buildings and in the underground parking garages. [interruption in recording] . . . not being kept in proper maintenance.

[11:00]

We express in our brief our concern that so many landlords say these problems are created by bad tenants. Certainly there are bad tenants, but it is our experience with that minority of buildings which are reasonably well maintained that tenants respond



by co-operating in keeping the building a good place in which to live.

If the landlord or his agents behave carelessly and irresponsibly, more and more tenants themselves become discouraged and hopeless about the conditions in the building and may even begin to contribute in some way to its further deterioration. In other words, responsibility for maintaining a good building must rest in the first place upon the landlord.

We draw attention to what I think the committee is very familiar with, namely the difficulty the tenants have in rent review in raising these problems of maintenance and disrepair because the act does not allow them to. We stress, as other tenant groups have stressed, the opinion that the problems of disrepair and the problems of rent levels must be brought together. Therefore, we are in favour of the establishment of a system of tribunals which would have the authority to deal with these two completely interdependent problems. We stress the importance of accessibility of these tribunals. That means night meetings wherever possible and hearings in the locality where tenants live.

I want to spend a minute in dealing with a question that I don't think has been discussed very much before this committee, which is striking a more positive note than we sometimes hear about landlord and tenant relations. In a number of buildings in Parkdale as well as elsewhere, tenants have organized an in-building association or committee, drawn up a list of their complaints and as a group initiated discussions with their landlord or his representatives. In some cases, these meetings have led to the overcoming of all or nearly all the outstanding problems. In others, progress has been made in overcoming at least some of the problems. In still other instances, the landlord has simply ignored the tenants and it has been necessary for them to institute other actions such as rent withholding and motions in county court under section 96 of the Landlord and Tenant Act. In some cases where the landlord has dragged his feet, the tenants have been able to work in co-operation with the city housing standards branch to bring substantial pressure for speedier action.

Out of this mix of experience, it has been established that tenant organizations can be a very positive means of improving conditions in buildings and, once initial difficulties are overcome, they can also contribute to improved relations between tenants and landlords.

It must be stressed, however, that in our experience the initiative in developing such

in-building organization must come from the tenants. It is never the landlord who takes the first step, and he is usually at first suspicious of and upset by the development. Therefore, if these positive developments are to continue and expand, it is of key importance that absolutely nothing be done which would in any way whatever weaken the security of tenure which tenants have achieved under the existing Landlord and Tenant Act. And at the same time, it is essential that nothing be done that might open the way for the landlords to act to rid themselves of tenants involved in organizing activities by the device of discriminating against them in rents.

This is a real danger. We do not believe there is any way of effectively guarding against it, other than through the continuation and improvement of the present rent review program.

We then speak of the problem of the growing disparity of rent levels in buildings, which I think the committee has become aware of in previous hearings. We think that one of the most important explanations lies in the fact that landlords, even before rent review, found it easier to raise the rent for a new tenant moving into an apartment rather than raising the rents of the continuing tenants of the building. This practice of raising rent on new tenants has continued since rent review, despite its illegality.

We make a point about the need to strengthen the rent review legislation in that respect and we suggest that the problem is wider than the legal rent increases. It is a complex one, since clearly some tenants are advantaged by disparities of rent in relation to other tenants. Since the problem was created by landlords in the first place, perhaps the most fair solution would be to write provisions into the rent review legislation which would make it possible for the appropriate tribunal to refuse any further increases in rent for those tenants who are at present paying the top rates.

To apply a term which has become popular in other circles these days, these tenants would be red-circled. Other tenants would over time receive rent increases in line with the rent review program, which would eventually result in eliminating the disparities within the building.

After making a number of recommendations, which I won't take time to read here, we go on to the question of a right to counsel. We say that we think the committee should be fully aware of the fact that tenants would not have been able to accomplish nearly so much in terms of protecting

their rights, overcoming problems of disrepair and effectively presenting their case before rent review officers had it not been for the assistance rendered to them by community legal services.

We express our appreciation for the great assistance the Parkdale Tenants Association has received from the Parkdale Community Legal Services. We draw the attention of the committee to the fact that there are a substantial number of problems arising with respect to community legal services this time. We have in our appendix some reference to some of these problems. They are problems of lack of adequate funding and also problems of the difficulty that the funding body seems to have in recognizing the principle of community control and seeing that that can be made consistent with public accountability for the expenditure of public money.

In the light of this circumstance, we feel that we must make a recommendation that your committee include in its recommendations measures to ensure the provision of legal counsel to tenants through adequately funded community controlled legal clinics. Alternatively, if this committee considers that a thorough examination of the adequacy of the Ontario Legal Aid Plan, as it affects tenants, is beyond its scope, we suggest that it recommend that another appropriate committee of the Legislature be assigned to conduct such an examination of the Ontario Legal Aid Plan with the arrangement of public hearings being an essential part of that process.

We make a point about the impact of market value assessment. We note that the committee of municipal politicians which has recently studied this matter at the request of the Treasurer and Minister of Intergovernmental Affairs (Mr. McKeough) has estimated that in Metropolitan Toronto, reassessment on the basis of its proposal would result in the reduction of taxes charged to apartments to \$398 per unit from \$623 as charged last year. This would represent a reduction of \$18.25 per month on the average apartment unit in Toronto.

We note also despite the dissent of school trustee Robert Spencer of the city of Toronto and Metro Chairman Paul Godfrey, that this committee failed to make any recommendations to ensure that these substantial savings would be passed on to the tenants. We suggest that the failure to make such recommendations underlines the need to continue the rent review program and we would strongly suggest that the market value assessment program and the projected results of its implementation constitute in themselves a

strong argument for the preservation of rent review.

We deal in the brief with a number of landlord arguments that we have heard at these hearings. I'll try to summarize them quite briefly. There is the argument that the landlords had stopped building, or had slowed down on building, before rent review came into effect; the argument of the landlords that they anticipated rent review. We suggest that if one looks back to the political situation of 1975 and the statements of Mr. Donald Irvine right through the middle of the summer that there would be no rent review program established, the landlords had very little basis indeed for anticipating rent review. We think they should find another argument for explaining why they were not building before rent review.

We also think it's important to make the point that rent review was not the result of the decision of the federal government to institute wage and price controls. The political situation was such in this province that rent review would have been introduced irrespective of what the federal government would have done in that respect.

We find the landlords' arguments boil down to statements that rent review is a major factor blocking construction of more housing; if there is a problem of affordability, it should be dealt with through subsidization; the costs of operating multiple unit housing are becoming unbearable.

We note that the landlords, in their desire to suggest that the vacancy rate is not a reason for continuing rent review—because they're obviously concerned that a low vacancy rate might be an argument, and we think it is an argument, for the continuation of rent review—are beginning to argue, notably, in the case of Hamilton but in other cases as well, that the vacancy rate isn't that bad.

I think the members of the committee will recall the discussion that arose at the last session about why, as a result of the increased vacancy rate, the landlords are not building. They reply, in response to questions like that, that this is a business decision, that many landlords would rather leave the units vacant than accept lower rents, that only if bankruptcy is impending will rent reductions be considered, and so on.

We suggest that what is really becoming apparent in these responses is that landlords are, in fact, holding out for an end to rent review so that they can raise rents again at will. There's plenty of evidence that most landlords, and certainly nearly all corporate landlords, are sufficiently organized to act in



unison on this matter. So much, then, for the free market and its capability to make everything come out all right in the end.

We also note that a number of landlord representatives—and we quote Mr. Burton and Mr. Schwartz—have sought to make it quite clear to the committee that while rent review is a big problem it is not the only problem, that there are a whole number of problems of federal, provincial and municipal legislation that landlords want changed. We say that this is a warning that the landlord-developer industry is out to achieve much more than the abolition of rent review. They are hoping to reverse the whole trend of landlord and tenant legislation which began in 1970 and was greatly advanced in 1975, and which, as Professor Simon Fodden of Osgoode Hall Law School once said, marked the first significant advances in tenant protection since the time of Queen Elizabeth I.

We deal with the subsidization argument. We think that subsidization is an important means of relieving the pressure on low-income tenants in the short term, but, at the same time, it is also necessary to recognize that unless such subsidization programs are accompanied by control over the level of rent charged, they become, in fact, over the long term a subsidy for landlords which is extremely difficult to support.

We develop some argumentation, which perhaps I haven't got time to go into here, that suggests that the problem of affordability is a much more widespread one than the tenants and the landlords themselves suggest. We believe that any tenant whose income is below \$12,500 a year roughly is in difficulty with the rent he is paying, and there are a great many tenants who are under that income level and are paying rents, in our opinion, that are too high.

The green paper itself cites some figures in this connection which may be an underestimation of a problem, but which nevertheless indicate in themselves that the idea of subsidization would be a very expensive solution and that without a proper program of rent review, subsidization would become, in effect, a subsidization of landlords. Landlords cannot expect to have the freedom to charge whatever rents they would like and expect the public to pick up the bill for them. This, by the way, is not a program which seems altogether consistent with that freedom from governmental intervention which the landlords put forward as their shining goal.

[11:15]

In dealing with the argument of unbearable costs, we note that the green paper itself in its treatment of the cost-revenue imbalance

makes out a case which landlords have found very gratifying. The Urban Development Institute says that the green paper "has explained the economics of the rental housing market and the effects of rent control far better and in far greater detail than we could attempt to do here."

We feel that we are not in a position as a voluntary organization to do the kind of research that is necessary to determine the exact economic picture that landlords are up against. We think you need to look at how much actual capital the individual landlord or the corporate landlords themselves have invested in development. These are very hard figures to come by. There are all kinds of complexities in it. We believe that before any decision is made to weaken the present rent review program thorough public study should be undertaken into all the ramifications of the profit structure of the landlord-development business in Ontario.

However, we say that if one is to admit that it's possible landlords can ultimately prove they are in a state of severe cost-revenue imbalance and that they can't meet their costs of operation, including the proper maintenance of their buildings, without substantial rent increases made possible by the elimination of rent review, then they will be at the same time proving that the private sector is incapable of providing for the housing needs of the majority of people of Ontario. The stronger the argument about unbearable costs, the stronger is the argument that the private sector is not the appropriate means of providing housing for most people.

We conclude, as a number of other groups have concluded, by emphasizing that it may well be that this province is going to have to move to an alternative which is based on the much wider provision of housing in the public sector in the third sector—non-profit housing, co-operatives and similar forms—than we have up to this time. Finally, until or unless we embark on such a course, there is no question in our minds that rent review will have to be continued and improved along the lines already suggested to you by this and other tenant-oriented organizations.

Mr. Chairman: Thank you, Mr. Clarke. There are several questions in the time remaining.

Mrs. Campbell: I'm interested in what you had to say about market value assessment and the impact upon tenants. I'm a little sad that you haven't made any recommendations as to how the passthrough could take place. Did you give any thought to that?



**Mr. Clarke:** Yes. Actually, the brief does make the point that every increase in municipal taxes has been dutifully and carefully passed through by the rent review officers to tenants.

**Mrs. Campbell:** That's right.

**Mr. Clarke:** There has been no question in the mind of any rent review officer that that's a charge that must pass through. We think that when the reductions take place in municipal taxes they have to be passed back in the same way to tenants. It may be necessary for tenants themselves to initiate applications for rent review to do that, but we think the same process can be used to pass back the reductions to the tenants through the rent review process.

**Mrs. Campbell:** There are many points in your brief that others want to question, so I'm going to confine my remarks to this particular section. Speaking personally, I am worried about market value assessment in the city of Toronto for some pretty obvious reasons. You never at any time, I take it, discussed with the Parkdale legal group the possibility of investigating the kind of evidence that came out when condominium owners decided that they were over-assessed. It was based on the fact that they were over-assessed because they were assessed on the basis of tenant assessment in the area, rather than home-owner assessment in the area.

I am concerned about this linkage with market value assessment, because it seems to me that the first step should be to review on the basis of the condominium argument, so that then when we come to the overall picture of market value assessment we can understand more clearly the ramifications of it in a place like Toronto. Have you done anything on these lines?

**Mr. Clarke:** No, we haven't. I thank you for the suggestion.

**Mrs. Campbell:** I have advised the tenants in my riding that I think they ought to at least look at those arguments. But I would like to see that now, rather than putting it into market value assessment where I think there could be a great deal of confusion. What would you say to that? Would you like to take the time out to investigate those arguments?

**Mr. Clarke:** It certainly would be worth some careful study by tenant organizations.

**Mrs. Campbell:** There is one other point. You have talked about the matter of the deterioration in maintenance. Your point bothers me somewhat because, as I recall, when sitting in this committee, otherwise constitu-

ted, before rent review came in, UDI and others pointed out that if we brought rent review in that would be the necessary corollary to it. And you seem to be making the point that they were either right or they have been setting out to prove that was the correct position.

You were there at those hearings and you heard them say that.

**Mr. Clarke:** Yes. I must say though that there is an awful lot that could be done about maintenance that isn't being done, without running up those vast expenditures that some people imply. In my opinion, it is more that an effort is being made to prove something rather than it is that the maintenance problem is so expensive in most cases that it can't be resolved. Because it is resolved when there is pressure from the tenants.

**Mr. Chairman:** A supplementary question from Mr. Kennedy; and then in the very few minutes we have remaining, we have Mr. Williams, Mr. Duksza and Mr. Warner.

**Mr. Kennedy:** You said that maintenance is of serious concern to tenants at the present time. Are you saying then, as Mrs. Campbell mentioned, that it is as a result of rent review? Have you detected a deterioration in maintenance since rent review came in?

**Mr. Clarke:** It may be; it is hard to answer. The buildings that we deal with are getting older, you know; and there are problems of that kind. My feeling is that the problems of proper maintenance, up to and somewhat above city standards—and that's often what we are talking about—can be met by landlords. I don't think rent review provides a reason why they are not being met. After all, they can get the additional cost—if there are such additional costs in maintenance—passed through very easily in the rent review program. I think some landlords—and I am only suggesting some landlords—may be using it as a pressure point to say, "Look at what happens after rent review." That may be a factor in the situation.

I think we have to remember that the cost can be passed through and that tenants are really, really concerned about being faced with a situation where they are being asked to pay higher rent and are getting poor service. There are quite a few tenants who say, "Well, a modest rent increase we wouldn't mind paying, if we were getting service."

**Mr. Kennedy:** I see two things: You mentioned the stairwells, and so on. In an owner-operated situation that must be just laziness, because it has no effect on budget. The other would be the major apartments where you have staff and then, as you say, it is a pass-

through situation. There's no need for them to fire or reduce maintenance staff. I don't quite understand that.

Mr. Clarke: The superintendents are very inadequate in many cases; they are just for cleaning purposes. The landlord gives somebody a rent-free apartment and a meagre wage. It could well be that if they spent a little bit more on superintendents they would get a lot better service and the tenants would be a lot better satisfied and perhaps wouldn't mind paying a bit more for that.

There are all kinds of problems like that, not related to major repairs.

Mr. Kennedy: You are saying that it has recently, at the present time, declined; implying that it is rent review. But now it is not necessarily so.

Mr. Clarke: There were problems in some buildings before rent review; I don't want to tie it to the last two years completely. There has been a steadily growing problem and it is one that has to be dealt with. Our basic point is that we need to be able to deal with that problem in relation to rent increases.

Mr. Kennedy: There is no pattern of wages or salaries for maintenance people; they are all over the ball park.

Mr. Clarke: They are a very oppressed group of people. They are caught between the landlord and very often the tenants who have problems with them. They are underpaid. I know one building for instance, a very large building in Parkdale, 55 Triller, which hasn't had a vacuum cleaner in operation for some time. There are problems of a lack of equipment, replacing equipment and so on.

Mr. Chairman: This is no time for us to start to adhere rigidly to the clock, because this is an excellent presentation. But we now have four questioners, as I mentioned: John Williams, then Mr. Dukszta, Dave Warner and Mr. Makarchuk. Could we keep them brief, please, because we have others waiting?

Mr. Williams: Mr. Clarke, turning to pages six and seven of your submission, you have a series of eight recommendations. I just want to address myself to two of those and ask you questions with regard to them; they are recommendations two and three, which have been touched on to some extent in the previous questions. The first recommendation: "We strongly support the establishment of a housing tribunal with jurisdiction over repairs and other matters." It is my understanding that the city of Toronto operates among the most sophisticated and comprehensive housing standards bylaws and committee procedures of any municipality in the province. I understand they are pretty effective in en-

suring that landlords will attend to necessary repairs to premises. If that observation is valid, would the inclusion of such machinery in provincial legislation not duplicate that type of situation unnecessarily?

Mr. Clarke: First of all, the observation, I am afraid, is not quite valid. The city of Toronto is engaged in a lengthy process of bringing its housing standards bylaw up to the latter part of the 20th century. The housing standards bylaw was written to serve houses and has been extended to serve apartment buildings. It is very inadequate. It doesn't cover elevators, it doesn't cover buzzer intercom systems and that sort of thing at the present time. The city has been working at great length on a new bylaw. It is no model; as a matter of fact, the North York bylaw is better.

But to answer your question, I don't know just how this is going to be done, but I think there is a place for including, in the purview of tribunals, problems in relation to the enforcement of housing standards. There is a bunch of problems of jurisdiction there.

According to my understanding, that is what is done in a place like Boston. In the Commonwealth of Massachusetts there is a very good law covering landlord-tenant relationships. They have housing courts that deal with rent levels, that deal with eviction problems, standards and all that sort of thing. It's all in one place and the courts are accessible, I believe, even on a 24-hour a day basis.

[11:30]

Mr. Williams: Are you suggesting then perhaps the whole concept of housing standards might be a matter that would be more appropriately under provincial jurisdiction and control rather than individual controls?

Mr. Clarke: These are rather complicated jurisdictional problems. One can also look at whether these tribunals themselves might not at least in some areas, be brought more into the jurisdiction of the municipal authorities with permissive legislation from the province. I am not sure how that is to be done. I would like to see us try to bring about a situation where the question of housing standards would form part of the work of these tribunals.

Mr. Williams: You're saying you would like to see it retained at the municipal level. Then you're not answering my question as to my observation that it would appear to create an unnecessary duplication of service, if you had it in the provincial statute as well as maintained on a discretionary basis, if you will,



at the municipal level either in the Municipal Act or whatever other municipal legislation.

**Mr. Clarke:** I would think that at least for some of the problems of housing standards there might be somewhat of a different approach to them in Toronto than there would be, say, in Fenelon Falls, or some place like that. I would be a little worried about that problem. Really what tenants are concerned about is a good system of housing standards that's enforceable. They really don't care that much, if I sense what most tenants think, whether it's done by the provincial government or the municipal government. Municipal governments are sometimes a little easier to get at.

**Mr. Williams:** Let me put the question another way. If your observations with regard to Toronto housing standards bylaws and the operations of its committee and so forth are valid, assuming it was brought up to the standards that you portray and feel are necessary, would you then suggest it necessary to have such provisions in the provincial legislation, if you had an effective municipal housing standards operation and legislation.

**Mr. Clarke:** There are other things that are at the provincial level regarding landlords and tenants. These tribunals as we would visualize them would have to be able to deal with landlord and tenant questions and with motions for eviction and that sort of thing.

**Mr. Williams:** No, I'm talking to that. I realize that you refer to those other matters here. I'm speaking about this area of disrepair on which you put heavy emphasis in your submission. I'm not arguing with the points you make. I'm just saying that I can't see the justification for duplication of service. I want you to identify or suggest which preference you have as to whether it should be municipal or provincial. The point you seem to be suggesting is that it might be best to have it both ways at both levels and I can't see the justification for that. Maybe I'm misreading it.

**Mr. Clarke:** I guess I have to conclude that a great deal of the material we're talking about which is going to be before tribunals is at the provincial level and probably has to stay there. I'm talking about section 96 of the Landlord and Tenant Act which relates to the interdependency of covenants and that sort of thing. That's the section dealing with disrepair in the Landlord and Tenant Act.

If I have to opt for one thing or the other, **Mr. Williams,** I guess I would have to say that I think the tribunals would have to be established at the provincial level. I would hope they would have some power at least

to enforce municipal housing standards bylaws or to make orders, which they could probably make under the Landlord and Tenant Act, consistent with municipal bylaws. They can make orders that would be more effective than a lot of the orders now issued under municipal bylaws to get things done as far as maintaining housing standards are concerned.

You see, the problem of housing standards enforcement is there really isn't any enforcement that is very effective other than prosecution in the courts, and the courts don't fine landlords enough to really worry them, or in the city of Toronto there are certain powers to move in and actually take over a building and effect the repairs. But we need a more effective enforcement system. I would hope that a tribunal taking account of the existence of municipal housing standard bylaws could be helpful in that respect.

I would have to answer you—I have been trying to feel my way through this by saying yes, I guess it has to remain at the provincial level, basically.

**Mr. Williams:** My second question deals with your recommendation three with which I find perhaps the greatest amount of difficulty. You are saying here that it is recommended that financial loss of the property owner and financing costs should not be considered as part of the cost, passed through to the tenants in rent increases. Can you explain to me how the property owner is to avoid a financial loss if he is not given the authority to pass through that cost? Are you suggesting that is not a concern of the government, that a tenant should not be subjected to rent increases even if the landlord or owner has to continue to experience financial loss? Or do you have some other mechanism for ensuring that at least they will break even other than passing it through to the tenant?

**Mr. Clarke:** We are probably not going to agree on this. But I have a great deal of difficulty, and always have had, with the concept that there is a business that is at least guaranteed by the government, by legislation, against loss. I don't know of any other business—

**Mr. Williams:** Guaranteed by the government in what way?

**Mr. Clarke:** Through the rent review legislation. The rent review legislation empowers the rent review officers to guarantee the landlord that he is not going to lose any money. I think that can be a reward for incompetence, for one thing; I think it can also be a way in which—certainly there is refinancing



that goes on that doesn't particularly serve the interests of tenants. We know that landlords do take out mortgages on buildings and use that to extend holdings elsewhere and so on. This does happen. The whole financial loss picture has always bothered us very considerably, and that is why we put it this way.

This matter, I might say, has been argued more fully than we have argued it in some of the other presentations, including that of the Federation of Metro Tenants Associations.

**Mr. Williams:** In concluding, you are prepared to see a property owner take a financial loss so as not to prejudice the tenants through rent increases?

**Mr. Clarke:** Yes.

**Mr. Williams:** Thank you.

**Mr. Duksza:** When a financial loss is incurred by someone who gets involved in buying a property owing to bad financing or bad decision-making, that is a responsibility of the landlord and not the tenant. I think our concern should always be, and I tend to agree with Mr. Clarke, that this type of bad decision is not passed through in the rent increases. It's enough that we have rent increases because of what is called a normal return on capital. If we return to what is a normal return on capital. I think before we accept that there may be—

**Mr. Williams:** You're making a speech.

**Mr. Duksza:** It's a speech of sorts—

**Mrs. Campbell:** He is the member for the area.

**Mr. Duksza:** It is my area. Thank you, Mrs. Campbell.

**Mr. Williams:** Are you asking him a question or making a speech?

**Mr. Acting Chairman:** Order, please.

**Mr. Duksza:** I'm going to ask him a number of questions, but the longer you interrupt, the longer I'll talk; so please, if you don't interrupt, I'll continue.

**Mr. Williams:** I was answering a question.

**Mr. Duksza:** I'll turn in a moment to the actual problems that Mr. Clarke brought up. But we are concerned that the passthrough should not go to the tenant at the moment. Anyway, if we are going to be concerned with that, we should know exactly the capital investment and the return on capital of a particular landlord. In fact, I am saying we should open the books to see the exact financial operations that are due to particular costs before we accept at face value what many landlords have been presenting here, saying they are suffering so much of a loss.

One thing we should remember is that in the past people have made enormous profits on the whole question of development, land speculation and others; potentially the rent review legislation may have cut this to a more reasonable way like every other industry. I think we should probably accept that. Your suggestion that maybe the private market has ultimately failed in dealing with a social problem like the housing, I think is correct.

Let me just go back now to the practical question of maintenance. Like Mrs. Campbell, it puzzled me a bit. I remember, Mr. Clarke, that we have dealt with each other before on this thing. Since my election, there have always been calls and complaints from the tenants about the state of the building on Jameson, which is the only part which is in my riding, on the state of maintenance of the buildings. Is it your impression that complaints have increased in terms of the state of the repairs and maintenance of the building since rent review because it hasn't been my impression, I must say, in terms of the calls that I get? You get more calls than I do.

**Mr. Clarke:** I think it depends on the building. Each building is a little different. I think with some buildings it has been a problem for a long time. I think with some buildings it's more of a problem. I would like to come back to the point I made in the brief that a resolution of a problem is also happening. I mention a couple of buildings on Jameson Avenue—145 Jameson and 177 Jameson—where there were considerable problems of disrepair. As a result of the tenants getting together, getting organized and putting their case before the landlord, it has been fixed up. Those buildings are fairly satisfactory, particularly 145, and I understand 177 is now being put into a more satisfactory condition.

I want to emphasize that these problems we are complaining about are problems that can be resolved and usually are resolved as a result of some tenant organizing action. They don't always stay resolved indefinitely but they can be resolved.

**Mr. Duksza:** Paradoxically, Mr. Clarke, now that landlords can pass through the costs for maintenance and for improvements, they should bitch less than they did before when the money spent on maintenance was straight out of their pockets. In that sense, I think rent review is a factor that has co-operated with them and I would expect you to see better maintenance and better repair. If you don't, then I suggest there's a certain unwillingness on the landlords and an attempt to subvert

the existing legislation to show that people are losing money, which is nonsense.

Jameson is a peculiar street because it's largely owned by absentee landlords. It was built for sheer speculation and for making profits as cheaply as possible. The people have drawn as much money out of it as is humanely possible. In your own work—and I know you are limited in staff and research—do you have any evidence as to who exactly controls most of the buildings besides the obvious ones like Belmont? Do you know the basic interests and which particular companies control it? Are they in Canada or are they outside?

Mr. Clarke: We haven't really done that much work on that. There are none of the people who at least appear to be relatively smaller operators of apartment buildings who may own two or three buildings. Belmont is one of the biggest holders of property in the Jameson area. As to whether there's some connection between the landlord who owns my building on Jameson Avenue and the landlords who own certain other buildings on Jameson Avenue, we really haven't established a connection there. It would be worth trying to do more work on that.

Mr. Duksza: I sympathize also with the fact that superintendents often have to bear the brunt of dealing with the tenants, while in effect the landlords hide behind that and will not deal directly with the tenants. It should be stated as a class action and tenants should have a right to deal directly with the owners on terms of equality.

Mr. Clarke: One thing we all really need to do something about is the failure of landlords to comply with the Landlord and Tenant Act and post their address in their building. I had to spend quite a bit of time doing some research just the other day for a tenant at 100 Jameson to find where his landlord lives. It goes on all the time. It would certainly help if the Ministry of the Attorney General spent a little time in some prosecutions on those questions. Tenants go down to court themselves, down at the City Hall, and the magistrate will probably tell them that it is not really very serious and the fines are minimal. Lots of landlords are very happy not to have their name and address in the lobby.

[11:45]

Mr. Duksza: I hope one of the things that will come out of the hearings is that there will be tighter application of some of the rules and regulations of existing legislation. Those people who break them should face more severe punishment and penalties.

Mr. Acting Chairman: Thank you Mr. Clarke. Your point has been well made on behalf of the Parkdale Tenants Association.

Mr. Makarchuk: You have me down there somewhere—waiting patiently Mr. Chairman.

Mrs. Campbell: No, you haven't—

Mr. Makarchuk: No, I have been silent this morning, Margaret. I'm a slow starter.

Mr. Acting Chairman: I would hope that members could move on and perhaps Mr. Makarchuk can keep his question as brief and minimal, as has been his usual trait.

Mr. Makarchuk: I am not going to emulate Mr. Williams, I can assure you of that.

Mr. Acting Chairman: If that is possible, I would like to see us get to the next—

Mr. Makarchuk: One in parliament is enough.

Mr. Kennedy: When were you ever lost for words, Mac?

Mr. Makarchuk: On occasion I am.

Mr. Acting Chairman: All right, Mr. Makarchuk, your usual quiet—

Mr. Makarchuk: On the housing standards bylaw, in effect what you said is that there are apartment buildings that are under rent review whose owners are still able to maintain the building properly and there are others who are not maintaining it. There is a cost passthrough of maintenance available to everybody. So the landlord argument that they can't maintain buildings because of rent control is just pure baloney. You would agree with that?

Mr. Clarke: Yes.

Mr. Acting Chairman: Is that called leading the witness?

Mr. Makarchuk: Yes. For future legislation, you are suggesting that it should be a provincial responsibility to set the minimum housing standards bylaw. Would you not consider perhaps that there should be some kind of tenant's right to proper maintenance? In other words, you have a tenant's right to tenure in the apartment. Perhaps there should be something in the Landlord and Tenant Act or the rent review legislation requiring that the tenant has the right to proper maintenance. It might be administered, through the rentalsman or the tribunal or whatever, but perhaps that could be considered for the future. Would you feel that may help to resolve some of the problems? It is not a financial problem at this time. At least I don't see it that way, and I don't think anybody here would agree that they cannot pass it through.



Okay. The second question I wanted to discuss is this tax rebate passthrough when we go to market value assessment, if and when. I think in 1970 or 1971 or 1969 there was a plan where the tenants received a certain—that was just before an election, I'm not sure which one—but you remember that experience?

**Mrs. Campbell:** What experience?

**Mr. Makarchuk:** Where there was one hell of a lot of problems that developed between tenants and landlords because the money that was supposed to come back didn't come back, it got lost in transit and everything else. You would not advocate that kind of a solution?

**Mr. Clarke:** No, no.

**Mr. Makarchuk:** Can you in your mind, foresee a landlord who gets a tax cut passing it to his tenant?

**Mr. Clarke:** Not unless he has to. I shouldn't be so unfair as that I guess, because some landlords will do it. But as a rule, unless there is something there to enforce it, it won't happen.

**Mr. Makarchuk:** Unless there is legislation on the books and some administrative setup to do that?

**Mr. Clarke:** That's right.

**Mr. Makarchuk:** In terms of the loss and profit that Mr. Williams touched on—the cost passthrough in terms of financing—it could again develop into a serious problem. I think that Mr. Duksza mentioned the fact that somewhere we would have to open the books. You could understand that it is quite possible for a landlord to refinance a building—through a relative or through a corporation within a corporation, et cetera—which can for tax purposes and everything else show a loss. At the same time, his loss is carried to the bank on a monthly basis or possibly more regularly than that.

You would agree that if we're going to allow cost passthrough in terms of financing, on return on investment and so on, then all the figures, all this information, should be available to either the rent review tribunal, to the tenants, to be hashed over.

**Mr. Clarke:** Yes, I think if that is to continue in any form there has to be a much greater possibility of examining all the landlord's books. I think we cannot accept a situation where rent review officers say, "I'd like to get a little more information on that please," and then they may or may not get the information. Nobody knows what's happening with it.

If you're going to have a proper review system, the tenants or their representatives are going to have to have access to all the relevant information about the landlord's entire financial picture.

**Mr. Makarchuk:** And you're certainly not against the landlord making a profit?

**Mr. Clarke:** No, if you're in private business then you're going to try to make a profit, otherwise how do you stay in private business? I'm not sure whether it's going to be possible to maintain a profit in this particular line of endeavour very much longer.

**Mr. Makarchuk:** I just ask that question—I hope you don't get booted out of some of your commitments for making that statement on profit.

**Mr. Clarke:** No, if it's private business, then it depends on profit, obviously.

**Mr. Acting Chairman:** Could we move on to the next brief? The points made, Mr. Clarke, are very well received. Thank you. I believe the other gentleman who was with you has gone. Oh, no, he's behind you.

Thank you both for coming down and making the presentation on behalf of Parkdale. I'm sure the points are well-received by the committee and they'll give certain consideration to them.

Turning to the next brief, it is the Housing and Urban Development Association of Canada, Kitchener-Waterloo association brief. Mr. Collins, would you begin please by introducing yourself and your committee and whom you represent, and give us a general overview? I think many of us have some of that knowledge already but I think it would be helpful if you would elaborate for the record.

**Mr. Collins:** My name is David Collins and I'm representing the K-W HUDAC multi-family council and my associate is Mr. Bud Schaab. We are presenting our brief in the form of recommendations. We think the green paper was very well done and we are sort of highlighting some of the recommendations that came out of the green paper in three main areas.

**Mr. Acting Chairman:** You might speak a bit more loudly. I'm not sure that people at the back of the room can hear you. In fact, I'm convinced they can't.

**Mr. Collins:** I'd like to go through the brief and then entertain any questions that there might be.

The green paper prepared by the Ministry of Consumer and Commercial Relations entitled Policy Options for Continuing Tenant Protection deals with three prime questions:



What mechanism should be used to deal with landlord-tenant questions and disputes; what should happen to the current rent review program; and what changes might be made to existing residential landlord-tenant law or relationships?

The brief is in three parts, each dealing with one of the questions outlined above. The analysis of the current state of the rental housing industry by the green paper is quite complete and we have not therefore entered into a lengthy debate or analysis. Our response is primarily in the form of recommendations.

Before altering the existing landlord-tenant relationship, it should be recognized that the vast majority of tenants and landlords operate today without conflict.

Most landlords recognize that, if they are to survive in an extremely competitive industry, they must offer fair value for the rent charged and must permit the residents of their properties to enjoy a reasonable standard of home life without interference from either the landlord or other tenants.

Most residents fully recognize their responsibility to the landlord to pay rent and not to damage the property and to other tenants by permitting them quiet enjoyment.

Changes which are considered in order to resolve problems created by unreasonable or unfair landlords and tenants should be carefully drafted so that disputes are quickly resolved without penalizing innocent parties.

Government, for its part, must recognize that the rental housing industry in Ontario is not as healthy as it might be, owing in part to past intervention in the industry. Rental accommodation, by comparison with other essential commodities, is still a good bargain for the consumer and one must therefore question the need of excessive government involvement or controls.

Perhaps, by way of example, I can suggest to you that from 1961 to 1964 the cost of rental housing went up approximately 30 per cent, the cost of living went up approximately 68 per cent, and personal incomes went up approximately 255 per cent.

Undoubtedly, some changes were needed in the past to overcome certain inequities in landlord-tenant law. However, in spite of the best of intentions, some of the changes which were made served only to increase the polarization between landlords and tenants rather than to improve the relationship. Future changes should be carefully considered from this point of view.

The tribunal certainly is one of the recommendations that we agree with. The concept of a provincial rentalsman or landlord-tenant

tribunal is a good one, provided certain criteria are met. The tribunal should be established by provincial legislation, reporting to the Legislature through the Attorney General.

The tribunal should have broad adjudicating powers established by legislation, with a relatively free hand to investigate and adjudicate on almost all landlord-tenant matters. The tribunal should replace the county courts, the small claims courts, the rent review board and the landlord-tenant advisory boards on all landlord-tenant questions.

The tribunal should have regional offices established throughout the province, with full delegation of responsibility to ensure the speedy resolution of all questions. To appeal a decision of the tribunal, reference would be made to the county courts. Hearings before the tribunal should be informal, not necessitating the need for legal advice or a lawyer for either party.

The first approach of the tribunal should be to mediate disputes but, failing mediation, it should have the ability to adjudicate based on landlord-tenant law. The tribunal should also act in an advisory role to both landlords and tenants. For example, if a landlord wishes to institute a new agreement-to-lease form, he should be able to have it first approved by the tribunal.

All parties involved in rental accommodation should be able to initiate action before the tribunal. This would include actions initiated by landlords against tenants, tenants against landlords, and tenants against tenants. The tribunal should have jurisdiction over landlord-tenant disputes involving both former and current tenants.

Regarding a method of decontrol for rent review, which is the main topic of discussion, we are suggesting that the decontrol period should cover a one-year period, commencing January 1, 1979. A method of decontrol is as follows: The base rent for a decontrol period would be the highest rent paid for all comparable suites within a particular rental community. The highest rent being paid is reasonable as it has already been established under controls and it is at least close to market in that it is an effective rent.

During the decontrol period, which is over the course of one year, the base rent may be increased by six per cent. Rents that are below the base rent may be increased to the base rent plus six per cent in order to equalize rents for similar units. Landlords would be prevented from creating vacancies by demanding unconscionable increases. No rents should be increased by more than six per cent before May 1, 1979. We are suggest-

ing, therefore, that the decontrol period would really go into 1980, if it only becomes effective May 1, 1979, for a 12-month period.

[12:00]

As units become vacant after January 1, 1979 they would be free from controls. All rent increases after January 1, 1979 would be effective for a minimum of 12 months, unless the unit is legitimately vacated. Any owner who is suffering legitimate hardships would appeal to the tribunal for an increase greater than six per cent. The tribunal would permit a greater increase if warranted. In arriving at the amount of the increase, consideration would be given to cost increase passed through and a reasonable return on equity. All controls would end on December 31, 1979. Would you like me to go through the example, Mr. Chairman?

**Mr. Acting Chairman:** Yes, present the brief as you see fit.

**Mr. Collins:** In a building with six comparable two-bedroom units and rents ranging from \$260 to \$275, the rents could be raised by only six per cent before May 1, 1979, resulting in a range from \$276 to \$292. The lease for the \$260 suite expires after May 1. On the lease anniversary date the rent could be raised to the base of \$275, plus six per cent, to \$292. The rent for the \$275 suite could not be increased by more than six per cent until January 1, 1980, unless it was legitimately vacated.

I turn now to policies regarding landlord and tenant relations. The green paper provides a good analysis of most of the problems which currently hinder good relations between landlords and tenants. The following are comments on the several points raised.

**Assignment and subletting:** Tenants should be able to assign their tenancy agreements with the approval of the landlord. A tenant would then be responsible for the rented premises only until such time as he finds a new resident acceptable to the landlord and willing to sign a new agreement for either the duration of the existing term or a new term negotiated with the landlord. Tenants who wish to assign their leases should absorb costs incurred by the landlord.

**Arrears of rent:** It is agreed that the process of resolving nonpayment of rent disputes must be improved. A readily accessible tribunal would help. If landlords could initiate action to regain possession at the time of giving notice, it would help as well. For example, a notice requesting payment or vacant possession within 14 days would be given by the landlord. At the same time, an

application could be made to the tribunal which, during the 14-day grace period, could issue a writ of possession. If the arrears were not paid by the fifteenth day, the landlord would then proceed to the sheriff in order to gain vacant possession.

The tribunal should also have the power to issue a judgement for the arrears of rent, regardless of whether or not the tenant vacates, and to impose a repayment plan which would be administered by the tribunal if it was acceptable to the landlord.

**Overholding tenants:** Tenants should be liable for damages incurred by the landlord when the tenant wrongfully maintains possession of the premises. Many jurisdictions permit accelerated rent clauses to discourage tenants from overholding. In this case, some consideration might be given to such a clause.

**Accelerated rent:** Landlords should be permitted to collect a fee for late payment of rent or for the issuance of an NSF cheque. A landlord, when he rents accommodation, is extending a rather substantial line of credit to the resident. The residents who do not adhere to the payment agreement should expect to bear at least part of the collection costs. A collection fee would also encourage residents to pay on time and ease the burden of the tribunal.

**Abandonment:** A landlord should be able to clear premises immediately with the provision that the disposition of abandoned property be supervised by the tribunal or its designate. The tenant should bear all costs related to removal and storage.

**Enforcement of obligations:** A readily accessible tribunal with the ability to mediate and adjudicate if need be would likely resolve this question. The greatest problem of resolving such matters today is the burden of proof which is placed on the landlord. The easing of laws of evidence before a tribunal would be beneficial.

**Causes of termination:** All additional causes listed are acceptable.

**Rights of tenants against other tenants:** Some landlords take little or no care to protect their reasonable tenants because the existing legislation makes it extremely difficult to do so. If a landlord could have an instruction to a tenant enforced by a tribunal it would certainly help as well.

**Renewal of term tenancy:** Landlords should be able, in their tenancy agreements, to insist on renewal for a further fixed term equal to the original one.

One further point: A serious problem for landlords today is the cost of refurbishing units to a rentable condition once a tenant has vacated or abandoned rented premises.



Some units are left in a deplorable condition and as the landlord has no effective means of recovering costs from the tenant directly, all other residents carry the burden. The last month's rent security does not help in this regard.

If a deposit equal to one month's rent could be used both for rent arrears and damages it would be helpful. Landlords would be required to prove to the tribunal that all deductions are reasonable. The vacating tenant should be responsible for providing a forwarding address should there be a dispute. The landlord or the tribunal should not be responsible for locating the tenant.

Interest would be paid on this deposit. Move-in and move-out inspection forms should be required by statute or regulation. The landlord would be responsible to ensure the move-in inspection was completed and the tenant would be responsible for arranging a move-out inspection.

In conclusion, I would just like to add that in the K-W area we have a vacancy rate of somewhere around six per cent and we feel the market pressures will provide sufficient rent controls. Thank you.

**Mr. Chairman:** Thank you, Mr. Collins. I know that members of the committee have some questions, beginning with Mrs. Campbell.

**Mrs. Campbell:** Thank you, Mr. Chairman. I would like clarification of Mr. Collins' statement on the method of decontrol. It was the first statement he made: "The base rent for the decontrol period will be the highest rent paid for all comparable suites within a particular rental community."

From that, do I take it that I did, perhaps, misread it in the first instance, and that you are talking about one building?

**Mr. Collins:** Yes.

**Mrs. Campbell:** And not the greater community?

**Mr. Collins:** A particular building.

**Mrs. Campbell:** I see. That clarifies that. I was afraid we were getting into a comparison with new buildings which are not under rent control.

**Mr. Collins:** Similar units in the same building.

**Mrs. Campbell:** In the same building, right.

One other question here: "On the renewal of term tenancy, landlords should be able in their tenancy agreements to insist on renewal for a further fixed term equal to the original term." Could you clarify that for me, please, because I rather believe in bilateral agreement and not a unilateral one? I

would just like to know what you are getting at on that point.

**Mr. Collins:** I believe it is unilateral at this point in time. The tenants have security of tenure but not the landlord. We are suggesting that the landlords too should be given some security as to the future of that particular apartment or suite.

**Mrs. Campbell:** I've got the point now. Thank you, Mr. Chairman.

**Mr. Duksza:** I have a couple of points. In your introduction you specified that the rental industry in Ontario is not healthy and it is partially due to past intervention in the industry. Do you mean rent review or do you mean other interventions?

**Mr. Collins:** I think the rent review is the primary basis for that unhealthy condition or lack of building at this point in time.

**Mr. Duksza:** I understand from many sources that the slump in the building really started in late 1973 or 1974. I mean, no one then predicted that the rent review legislation would come in so promptly because it was due to political pressure more than anything else. So would you be able to explain, from your position, why that happened?

**Mr. Collins:** I don't have the statistics. I think it's relevant now as opposed to 1973-74. We are concerned with what is happening with rent controls now, not what has happened in the past.

**Mr. Duksza:** The slump occurred well before the rent review legislation was introduced and, of course, it is not due to rent review legislation. That is the only point I am trying to make.

**Mr. Collins:** I'm sorry, as I said, I don't have the statistics to disprove or prove what you are saying, but I think we are dealing with the problem as it presently exists in the housing industry. The housing stock is not where it should be right now and I think that is what we are really concerned with.

**Mr. Duksza:** I agree that we are not building enough.

**Mr. Collins:** I can't back up what you are saying as to when it started, because I don't know.

**Mr. Duksza:** I think there are two ways of looking at it. One, of course, is that we are not building enough. The vacancy rate in some areas is very, very tight and unless we build more, especially subsidized housing or by means of the government moving into building housing, we will not solve this problem easily. But, as I say, I think there are two ways of looking at it. You say it's not



healthy, and it's not healthy, in that we haven't got enough stock; and two, it's not healthy from the point of view of the people who control the industry; and here, I think, we are talking of the profit. In your statement then are you saying that that area is now less profitable than it used to be?

Mr. Collins: I guess that could be taken either way. The housing industry itself is not healthy from the standpoint that there are not enough rental buildings being built that will give you market pressures to control rents, thus eliminating the need for legislated rent control. As well, it's not a healthy industry from a financial investment standpoint, nor a normal reasonable return on profit.

Mr. Duksza: What in your opinion is a normal reasonable rate of profit? What do you consider it is now, what was it three or four years ago and what do you think is ideal?

Mr. Collins: I don't think I can answer that question, to tell you the truth, because I think it's relative to the individual apartment owner. What is a reasonable return to one person is not necessarily a reasonable return to another person either way, plus or minus. I can't say that if a 10 per cent return is reasonable to you, eight per cent might be reasonable to someone else.

Mr. Duksza: Yes, but we're talking here really about the profit. Unless we are clear, on the individual cases or the presentations like yours, what is the rate of return and whether it has changed, in effect the statement you have made that this is not healthy, except for the other part which we already discussed, is, in fact, more of an ideological statement than an actuality.

Mr. Collins: I'm prepared to qualify the statement that I made and I'm sorry I can't tell you exactly what I think is a fair return on investment. As far as it being a healthy industry or not, I think I can answer to that and that's all.

Mr. Duksza: Of course, one way of doing it would be when the people are making a presentation or making a real argument that there should be decontrol, they should at the same time open their books so we can have a clear understanding how much of a disastrous loss and how many people were ruined suddenly by the rent review legislation. Those who are landlords, of course.

Mr. Collins: I don't think the books are all that relevant to the issue.

Mr. Duksza: I believe it is, because otherwise the issue becomes entirely ideological and it's very difficult to deal with it.

Mr. Collins: I'm sorry, but I just don't agree with your statement.

Mr. Duksza: I think what you've said about the rent review and all this is rather interesting. I'm not going to deal with very much except just one question on the accelerated rent. I see the problem you're mentioning, that there may be a fee for late payment of rent, or issue of NSF cheques, et cetera, but the second statement is very curious. It says: "A landlord, when he rents accommodation, is extending a rather substantial line of credit to the resident." What usually happens—I'm not even sure if everyone does this any more—is you give a month's rent on the first day when you move in, so, in effect, what occurs is the tenant gives a line of credit to the landlord and not vice versa. This is totally incorrect.

Mr. Collins: Okay, it is and it isn't, because not all people ask for security deposits.

Mr. Duksza: But even if we discount the security deposit, when I move into the apartment I pay on the first of the month for the whole month ahead, not back.

Mr. Collins: Yes, but I'm guaranteeing you a place to live for a year; you only pay me for one month.

Mr. Duksza: I'm guaranteeing you from \$200 to \$300 which you can use. If I paid you for a year, you would have a substantial increase in profit, wouldn't you?

Mr. Breithaupt: His mortgage payment is due on the first of the month as well.

Mr. Duksza: That is quite true, but I mean, that is his business. It is not my responsibility as a tenant that I should support his mortgage and his business through my effort—though it is under the capitalist system, I agree with you—but I mean at the moment we are discussing whether this should continue the way he has presented it.

Mr. Collins: In one other point that was mentioned, we also have costs incurred in preparing that particular unit for you when you move in. Why should we have to absorb those costs as well? As I mention later on in the brief, there are sometimes substantial costs involved in preparing that unit.

Mr. Duksza: Preparing? In what sense do you mean?

Mr. Collins: Painting, decorating, cleaning and generally preparing it so that you will accept it in the condition that we present it.

Mr. Duksza: No, this is part of the contract, of course, but you've passed that through anyway. Most of the maintenance costs are passed through in the rent anyway.

**Mr. Collins:** I agree, but that's part of the cost of doing business. As part of my brief says, if we can make the tenant who has vacated pay for any unreasonable amount of cost incurred, then the other tenants wouldn't have to bear that cost. Right now it's not even worth our while to try to chase somebody who has vacated and to try to collect the money, because even if we found out where they were and took to court it would cost us more to go to court, so it just isn't worthwhile.

If there's a tribunal that's going to get involved—and I think the tribunal is probably the key to this whole thing—if it is there to help us out, not needing lawyers and getting a speedy recovery of the funds, that also is a passthrough saving for the tenants. [12:15]

**Mr. Dukszt:** I would have to be in agreement with you. I think a bad tenant is a bad tenant and must be controlled. My disagreement was only that some of your statement suggests that it's like the landlord provides charity for the tenant. My own impression has been the exact opposite.

**Mr. Collins:** I don't think I suggested it's charity. I was suggesting a line of credit.

**Mr. Dukszt:** That's exactly what I am saying. The line of credit is actually extended from the tenant to the landlord, not vice-versa.

**Mrs. Campbell:** You aren't going to agree on that, anyway.

**Mr. Dukszt:** I don't think so.

**Mrs. Campbell:** Mr. Chairman, can I have one quick question that arose out of some of this? You have said there's a six per cent vacancy rate in Kitchener, in that area.

**Mr. Collins:** In the neighbourhood of six per cent. It could even be seven, but I thought I would be—

**Mrs. Campbell:** What is your experience with people going to rent review under those circumstances? Do many people go to rent review in Kitchener?

**Mr. Collins:** What's a lot? Compared to who and compared to what? I am sorry, I can't relate it to another community.

**Mrs. Campbell:** Is it used at all?

**Mr. Collins:** Oh, yes, definitely it's used. But relative to Toronto or Hamilton or St. Catharines or Thunder Bay, I have no idea whether we have a lot or a few. I am sure that the people involved in the board would be able to give you that information. But it is used. I know it's used. I have been there,

and we have had our local rent review officer come and speak to our council.

**Mrs. Campbell:** So that even with the six per cent, people are still looking at rent review?

**Mr. Collins:** Oh, yes. Maybe they are satisfied with where they are, but maybe they want to try to qualify their rents.

**Mr. Kennedy:** Just a supplementary to the supplementary: the green paper says "3.3 vacancy, October 1977." Where do you—

**Mr. Collins:** Is that a CHMC figure? Those don't use new buildings or walk-ups. Their figures are somewhat erroneous, I am sorry to say.

**Mr. Kennedy:** In apartment structures of six units and over in census metro areas.

**Mrs. Campbell:** He's talking about Kitchener.

**Mr. Collins:** Actually, I am talking about Kitchener-Waterloo.

**Mrs. Campbell:** Kitchener-Waterloo.

**Mr. Breithaupt:** That area is broader.

**Mr. Kennedy:** "CMHC vacancy rate survey."

**Mr. Collins:** I am sorry, we don't have too much faith in their statistics, as far as the vacancy rate goes.

**Mr. Walker:** Neither do we.

**Mrs. Campbell:** No, nor does anybody else.

**Mr. Epp:** Mr. Chairman, on this particular point, I was wondering whether the universities closing down in the summer have any significant impact on that rate. Is perhaps the rate you have more of a summer vacancy rate, as opposed to a winter one when there are a lot of students there?

**Mr. Collins:** The students would certainly have an effect on the rental housing throughout the course of the summer. But I think we are finding now that more students are staying locally, as opposed to going back to wherever they have come from, depending on the job situation in our area and in their previous homes. But a lot of them are staying locally. Also, the semesters are extending through the summer. I think the student population is more stable now. It used to fluctuate substantially.

**Mr. Epp:** Because of the co-operative nature of the program?

**Mr. Collins:** Yes.

**Mr. Chairman:** My list shows Mr. Kennedy, Mr. Makarchuk and Mr. Epp. Is that correct?

**Mr. Kennedy:** Yes. I wanted to ask a question about the tribunal. You mention the informality of it. You suggest a great infor-



mality. It would be nice to believe that it would work that way, but I do see halfway down the page you say, "Failing mediation, it should have the ability to adjudicate based on landlord-tenant law." Are you suggesting if the clout is needed that we incorporate that into legislative or judicial legitimacy?

Mr. Collins: It has to be final. The appeals then go into the legal system. But I think you could compare it to a small claims court as far as the informality and not necessitating a lawyer is concerned.

It's beneficial both ways. We go back to the cost passthrough. If the landlord has to go to court, he has to take a solicitor with him. That's an additional cost, win or lose. It's still a cost to that building which is a reflection on the rent. So we can save money all around, and equally so for the tenants who probably can afford to take a lawyer with them even less than the landlord.

Mr. Kennedy: You suggest as well that they have regional offices throughout the province. Are we not suggesting here something like the current rent review situation?

Mr. Collins: I guess as far as placement of the boards goes, but the only comparison I'm drawing is in their locations because they are now situated in the most needed areas which are the larger centres. As far as the savings or the costs would go, although not directly related, we're also talking of the elimination of the cost of the courts for landlord and tenant situations as well as landlord and tenant advisory bureaux which are really tenant advisory bureaux. If we can eliminate those, there is some cost savings there as well. To take tribunals as an option is going to cost money. I'm sure the government would like to try to cut back on the cost of this total program. I'm sure the rent review boards are a substantial cost. It's a transfer but I think they would serve a much more useful purpose than a tribunal.

Mr. Kennedy: They would or could get into some of the questions rent review officers ask now as to operating statements.

Mr. Collins: They would absolutely. That would be their main function.

Mr. Kennedy: The green paper also suggested that the user pay for services.

Mr. Collins: I realize the green paper said that.

Mr. Kennedy: What are your comments on that?

Mr. Collins: How would you break that down as to user? You've got two people involved in a dispute; they're both users. Do they both pay or do you relate it to a cost

percentage for the loser as opposed to the winner? How do you break that down?

Mr. Kennedy: The paper says that it would be financed in whole or in part by those who would use its services. Down at the bottom it says: "Landlords might also be willing to defray part of the cost."

Mr. Collins: What if I were to suggest to you that one month's security deposit went into the tribunal?

Mr. Kennedy: That's what they're asking.

Mr. Collins: That's for funding.

Mr. Kennedy: What do you think of that?

Mr. Collins: I think it would help to fund it.

Mr. Kennedy: You'll go along with it?

Mr. Collins: I really don't think that's my area as far as how it would be funded. There are costs involved now. Eliminating the rent review boards is certainly going to save money but if you do that, hopefully the tribunals will be established as the key to making this thing work is the tribunals. They would have a much broader base than the rent review boards.

Mr. Kennedy: Do your members collect the last month's rent as I think they do here?

Mr. Collins: Some do and some don't. As a matter of fact, we had a meeting yesterday and we took a poll around the table and maybe 60 per cent did and 40 per cent didn't.

Mr. Kennedy: Then they hold it and pay interest on it?

Mr. Collins: They pay six per cent interest on the money. Unfortunately, it doesn't guarantee us the use of it for damages or arrears which is what we're looking for.

Mr. Kennedy: That's one of your suggestions.

Mr. Collins: Yes, it is.

Mr. Makarchuk: Mr. Collins, you mentioned that market pressures will eventually control rents. How do you arrive at that conclusion? Let me put it to you this way: a landlord will want to recover his costs and make a profit before he sets a rent for a building. Are you going to say that if he had a surplus of units, the landlord is going to rent a unit at below what it costs him to operate the unit?

Mr. Collins: You're almost using extremes. First of all, he doesn't necessarily have to go below cost to rent it but he is not necessarily going to get what he might consider the true rental income from that building.

Mr. Makarchuk: Right.



**Mr. Collins:** He doesn't have any control over it. The market controls it which is the beauty of it. He can't see it. He wants \$300 for a suite and there are 200 other ones in the city at \$285. I'm sure he'd be a fool to leave it empty at \$300. The market is controlling it. He doesn't have any control over what the market is doing.

**Mr. Makarchuk:** That's right. The point is that there is a limit to what he is going to go to, and that's it. In other words, what you're saying is that there is a market system that will come in and the landlord will be anxious to rent and will continue decreasing his rents until such time as he rents his apartments. That is not a fact.

**Mr. Collins:** I'm not suggesting that either.

**Mr. Makarchuk:** Then you don't have market pressure on rent control, do you?

**Mr. Collins:** Sure you do have market pressures. You're taking it down to the extreme and saying that guy is just going to keep dropping it until the bottom falls out and he can rent it.

**Mr. Makarchuk:** No.

**Mr. Collins:** He will absorb some losses to the point where he thinks the rent is reasonable or perhaps even less than what he considers reasonable rent.

Don't forget you're still dealing with people who know what they're doing. They aren't all going to let the bottom drop out of the market; if one says "I'll drop mine \$5," and the other guy drops his by \$5, all of a sudden everybody says, "Hey, this has got to stop."

**Mr. Makarchuk:** That's right, and they will stop some place.

**Mr. Collins:** Sure they will.

**Mr. Makarchuk:** Okay. The point is that when you are faced with the costs, you've got to meet your costs one way or another. There is no way they're going to let them drop below certain levels; they will stop some place. Have you looked at a figure where you think they will stop and compared that to the affordability of the people who are renting? Can they afford them at that level?

**Mr. Collins:** I guess we have to look at the individual building in that case and at what the rent is. When a person builds a building, he normally knows which market he's going for, whether it's lower, middle or upper income. They build the building with amenities and all sorts of things that go with it and reflect the rents accordingly. I gave the example of the increase in the cost of rental housing compared with personal

income increases, which was almost four times as much.

**Mr. Makarchuk:** But you still have no figures to indicate to us exactly the average income level in Kitchener, Waterloo, Toronto or anywhere else, the amount of money people can afford to pay for rent, or whether your rents are going to go to that level because they are freed and there are no controls. In fact, what can happen where you have two or three major landlords who may own only 20 per cent of the units is that if they increase the rents on the 20 per cent of the units—which you could do collectively; it is quite possible through joint action—that, in effect, can affect the whole market and everybody else, instead of decreasing rents, will raise them. That is the tendency of the landlord. He wants to maximize his profit. You can't blame him for that.

**Mr. Collins:** I think it is too general a statement to say all landlords are like that.

**Mr. Makarchuk:** But that, in effect, is what happens.

**Mr. Collins:** Not necessarily.

**Mr. Makarchuk:** Not necessarily, but that is what has been happening.

**Mr. Collins:** Can you give me statistics to prove your point?

**Mr. Makarchuk:** That's why we brought—

**Mr. Collins:** I can sit here and listen. You are asking me to show all my proof and facts and figures. I am making a presentation on what I have got to present here. All of a sudden we are getting a little off topic.

I wouldn't take anyone into the building if they couldn't afford to pay, or if the rent was more than 25 to 30 per cent of their income.

**Mr. Makarchuk:** Let's put it this way: According to the green paper, 14.4 per cent of the renters paid more than 35 per cent of their income in rents.

**Mr. Collins:** That is quite possible.

**Mr. Makarchuk:** That is quite possible in your area or anywhere else. In other words, there is a problem some place.

**Mr. Collins:** It's primarily Toronto where the problem is.

**Mr. Makarchuk:** I am not too sure that there isn't in Kitchener. How do you handle the affordability problem? What do you suggest that we do to handle that affordability problem? Would you agree there are people who will not be able to afford certain rents? Or do you agree everybody can afford it?

**Mr. Collins:** I think there is a rent for everyone some place. It might not be where

they want to live but it's all they can afford. I'm afraid we can't do anything about people's personal income. We don't pay them.

**Mr. Makarchuk:** In effect, if they have to live in a slum, then they should live there if that is all they can afford?

**Mr. Collins:** I think slum housing is a situation that needs interpretation as to what it is. We don't have any slum housing in Kitchener, for one thing.

**Mr. Epp:** Mr. Chairman, on a point of clarification, I am just wondering whether Mr. Makarchuk is suggesting that the landlord should be subsidizing the people in order to—

**Mr. Makarchuk:** No, no.

**Mr. Epp:** That is the direction I see this whole thing going, and I am just wondering whether he can clarify it.

**Mr. Makarchuk:** Our problem is that we have to ensure there is affordability of reasonable housing available to people. What I am asking him is, how would he handle the problem? I am not saying that the landlord—they have their point in there, as it was made in other briefs, that certainly the landlord, or for that matter any one particular group in society, should not be singled out to pay for the social problems that are created. I mean, there is no argument on that, and I am not saying that he should do it.

What I am asking him is, how would he handle it? What would he suggest that this committee do in terms of providing affordable housing or housing that people can afford?

**Mr. Collins:** It is easy to answer: just extend the rent supplement program. But is that the answer?

**Mr. Makarchuk:** That is your suggestion extending the rent supplement program? At least that is why—

**Mrs. Campbell:** That's not fair, Mr. Chairman.

**Mr. Collins:** I think that's a possibility.

**Mr. Makarchuk:** Okay.

**Mr. Collins:** I am not saying it is the only one, but it is a possibility to give people affordable housing.

**Mr. Makarchuk:** Okay. We aren't going to argue the merits of rent supplement. That is our problem; that is not your problem. Okay. [12:30]

Part of the argument that comes up in terms of the costs you have to bear is the development delays until the plans for subdivision go through. Is this a factor in the Kitchener area or has it been a factor?

**Mr. Collins:** In the cost of putting a building up?

**Mr. Makarchuk:** I mean from the time you buy the land, the planning cost, the development cost, et cetera, the usual UDI methodology, as I call it, that they spread around.

**Mr. Collins:** Methodology or not, for any product, the cost of putting that product together ends up ultimately in what you pay for it, whether it be a car or anything else.

**Mr. Makarchuk:** Do you agree though that the longer you have to go through the process, the more expensive it becomes?

**Mr. Collins:** I can't answer for everyone but as far as my experience has been—

**Mr. Makarchuk:** Has that been a serious problem in the Kitchener area?

**Mr. Collins:** I don't know whether you can narrow it down to Kitchener because we deal all over with local government.

**Mr. Makarchuk:** I am asking you about Kitchener specifically. In other words, if a person bought land, how long does it take before he gets his plan through so that he can go and take out a building permit?

**Mr. Collins:** I really couldn't give you a fair answer to that. I am not in development; I am in property management.

**Mr. Makarchuk:** Have you looked at the land component cost of apartments in Kitchener, the amount that goes to pay for the land et cetera? Have you looked at those figures?

**Mr. Collins:** No, I have not.

**Mr. Makarchuk:** Have you seen some of the articles in your paper? I refer to statements that say the \$4.5 million profit is in addition to other speculative gains that are made, or the statement by your chief planner who said profits are sickening and immoral when they are made at the expense of people needing houses? This is Bill Thomson, the chief planner for Waterloo. You have heard of him?

**Mr. Collins:** What was he making reference to?

**Mr. Makarchuk:** He was making reference to land costs in the Kitchener area.

**Mr. Collins:** Was this land costs for rental projects?

**Mr. Makarchuk:** He doesn't specifically say that it was for rental projects or anything. I assume that when projects come on stream, there are certain single-family, multi-family units, et cetera, set aside, so it will be reflected. There is a statement in terms of



delays by Mark Dorfman who states in Kitchener—and this is on August 9, 1976—there are 15,820 units included in plans and subdivisions that developers are not proceeding with. In other words, the plans have been approved and the lots are available. All you have to do is go ahead and start building. It is not the case that they are being held up developing the land. It is not a case that, if there were more land on the market, as the cry comes out here from Toronto, then they could go ahead and build and prices would go down. That is not the case in the Kitchener area.

**Mr. Collins:** Just because the land is available doesn't necessarily mean you build on it.

**Mr. Makarchuk:** I quite agree. What I am saying is the argument in Toronto is that if plans of subdivision, the lots, were available and if they could go down to city hall and take out a building permit and start building, the costs would go down. It is not just Kitchener. I can give you other examples. But we have an example here where there is space for 15,000 units available at a certain date and it is not being built on. It is not a lack of land.

**Mr. Collins:** I am not suggesting that it is.

**Mr. Breithaupt:** But the vacancy rate is different there than it is in Metro Toronto. Obviously, the projects will not go ahead, I suggest, when there is not a using-up and a demand resulting from a low vacancy rate or new plants or other sorts of operations that bring people into the community.

**Mr. Makarchuk:** What I am trying to relate this to is the fact that the argument that comes out of UDI and some of the others is that if planning restrictions were removed and if plans of subdivision went through faster, then they could build quicker and the costs would be lower.

**Mr. Breithaupt:** That may well be so in Metro Toronto.

**Mr. Makarchuk:** The fact is that here is an example where there is a potential of 15,000 units. I don't think the rents are any lower in Kitchener than they are in Toronto.

**Mr. Collins:** I would have to disagree with that.

**Mr. Makarchuk:** Well, they may be lower. The point is you have speculative profits there of \$4.5 million or \$8 million which will eventually have to be reflected in rent costs. If you want to look at the culprit for this problem, you start looking at the speculator profit. It's not the delay, and I am not defending the government here; there is no

question that in certain areas there are delays, there is no question about that, but let's look at the thing in its totality.

**Mr. Breithaupt:** I think you're correct, but surely the whole thing that's still going to trigger development has got to be more a reflection of the vacancy rate than any other particular item, don't you think?

**Mr. Makarchuk:** Development will be triggered by the profit potential. If there's a possibility to make a profit, there will be development.

**Mr. Breithaupt:** Which is relevant to the vacancy rate, perhaps more than anything else.

**Mr. Chairman:** Excuse me, Mr. Makarchuk. We are five minutes past 12:30 and there are two more questioners.

**Mr. Makarchuk:** All right, I'll be just a moment. If you can build a unit in which—

**Mr. Chairman:** Is this for Mr. Breithaupt or Mr. Collins?

**Mr. Makarchuk:** If the land component cost of the final unit is 25, 30, 40 per cent and you can build a unit with a land component cost of 15 or 10 per cent you can make a profit. You can build a unit, you can charge lower rent and you will still make a profit.

**Mr. Breithaupt:** And you could undercut the present vacancy rate, whatever it is.

**Mr. Makarchuk:** That's right, and you would still be making a profit. So then it becomes practical to build a unit, to go ahead with new construction.

**Mr. Breithaupt:** That could well be, yes.

**Mr. Duzsza:** If there is such a high vacancy rate and the land is not being used it means people are not building for different reasons. It has nothing at all to do with the need here. I think part of the case this gentleman is making is in that sense irrelevant, because he is only talking of enlarging the profits, which are already fairly excessive according to what Mr. Makarchuk said. So in effect he has almost no case in terms of decontrolling it, except from the point of view of making more and more profit.

**Mr. Breithaupt:** He may not be enlarging his profit, because he may have had to purchase that land.

**Mr. Collins:** Is the article, which is somewhat dated, in reference to one particular speculator, for lack of a better term?

**Mr. Makarchuk:** Actually the article appears to be general: "Potential Profits Land Dealings Called Shocking." It talks about Kitchener, it talks about Guelph and I've got some information—



**Mr. Collins:** They're making a general statement as to a particular developer or development in general, in this \$4.5 million profit?

**Mr. Makarchuk:** Development in general. In this case, \$4.5 million is one particular developer.

**Mr. Duksza:** You are talking for the whole industry. You are making a case for the rental industry, so you have to accept some of the strictures—

**Mr. Collins:** You don't even know if this particular person is in the rental industry.

**Mr. Chairman:** Here we are with the committee exchanging views. We can talk to one another all morning and all night, and we will. I think—

**Mrs. Campbell:** Some people will be here for breakfast.

**Mr. Chairman:** That's right.

**Mrs. Campbell:** We're all going to have indigestion.

**Mr. Chairman:** When we have witnesses here representing a specific group or organization or association, tenants or others, I think it is only fair to them that we direct it specifically to them and keep the more general but relevant things for ourselves.

**Mr. Makarchuk:** There's no question. He says he may not be in the rental business, which is quite true—

**Mr. Chairman:** Nor should he have to justify—

**Mr. Makarchuk:** —and the guy who builds may be the victim of this individual, as it says. We have to acknowledge that.

**Mr. Chairman:** Do you have a question for Mr. Collins?

**Mr. Makarchuk:** The landlord is the victim of the speculator, that's possible, but in many cases the two are the same.

**Mr. Collins:** But if he made that much profit he probably would have lower rents.

**Mr. Walker:** Six per cent is your vacancy rate, perhaps seven per cent in Kitchener, and presumably that covers the whole Waterloo region. With that six per cent or seven per cent, there must then, of course, be the natural effects of the high vacancy rate working on keeping rents modest, because obviously if there's a shortage of vacant apartments then the natural inclination is for rents to increase. It's a supply and demand cycle.

**Mr. Collins:** It's a supply and demand situation, sure.

**Mr. Walker:** The natural effects of supply and demand are somewhat interfered on, in my opinion, by an arbitrary rent control figure—in this case, six per cent. There is some indication in London that that has now become a floor, as opposed to a ceiling. Is there any indication—

**Mr. Collins:** There's a floor everywhere—

**Mr. Walker:** Has it become a floor then in—

**Mr. Collins:** I think if you had talked to anyone in British Columbia a few years ago they would have told you that once you establish rent controls you establish the minimum.

**Mr. Walker:** In other words, instead of an increase being two, three or four per cent, which might normally be the case with a supply-demand cycle, yours has now become a penalty on the tenants by becoming a floor, as I think it has in London.

**Mr. Collins:** I'm not necessarily saying all the landlords are doing it. But I think, generally speaking, they will say, "That is what they have established, that's what I'll use." But I would agree to a certain extent with what you're saying, that in some cases it can be a penalty. I know of personal instances where it hasn't.

**Mr. Walker:** So in our munificent effort to protect tenants, we have in effect created a pressure on them that cost them more money today than might otherwise have been the case.

**Mr. Collins:** Absolutely. It's more than just money. There is also this polarization aspect of it. Before, there was very little conflict. There were remote instances of conflict. But when you get people involved over a money issue, you tend to get them at odds, where in fact there really shouldn't be a problem. But when you get them in a court or a rent review board type setting, it creates no good feelings, that's for sure. As you expressed, there are financial hardships because of this floor of rent control of the six per cent.

**Mr. Walker:** My next question relates to your recommendations on page two, relative to the tribunal. You give general acceptance to the concept of a landlord-tenant tribunal providing certain criteria. The fifth one says, "To appeal a decision of the tribunal, reference would be made to the county court."

Would you be upset with an approach wherein we had a tribunal system that, for certain questions, allowed for final decision at that point? Accepting the fact that some of the decisions of the tribunal might well be appealed on the grounds of law to another

jurisdiction, but ignoring those areas for the moment, some of the areas are then halved off and relate only to the tribunal, which is then the final court.

**Mr. Collins:** I don't know whether I really understand that. Maybe if you could just—

**Mrs. Campbell:** He has to know what you're talking about.

**Mr. Walker:** Yes. There are some questions that are not really questions of law, but just questions of fact. Does the person owe the money, or does the person not owe the money?

**Mr. Collins:** You don't want the dollar aspect being able to be appealed? If someone is appealing the rent increase, you don't want that to go beyond the tribunal?

**Mr. Walker:** That's one aspect.

**Mr. Collins:** No I wouldn't disagree with that at all. On points of law you could appeal, which, I think, is the normal system.

**Mr. Walker:** But the corollary of that is that on certain points, on certain questions, you would be prepared to accept a tribunal as final authority?

**Mr. Collins:** Yes I think I would be.

**Mr. Walker:** If we established a very quick and ready, a very speedy approach to a tribunal that gave a decision awfully quickly, you would accept the binding nature of that decision as it relates to some questions referred to it?

**Mr. Collins:** As it relates to some, yes.

**Mr. Walker:** Such as, did the tap break or didn't it, or is the money too much or not.

**Mr. Collins:** One of the other things we are looking for is a certain amount of speed in this decision-making process. This is where we get stopped left and right, and this again is a cost by going through all the red tape.

**Mr. Walker:** There is no question that it's a pain in the rear.

**Mr. Collins:** It's a costly pain, too.

**Mr. Walker:** I just think we have to solve that problem. I don't think there's a member of the committee who doesn't want to have that resolved very quickly.

**Mr. Makarchuk:** That makes life unbearable.

**Mr. Collins:** I think that, as we're suggesting, they should have full powers of adjudication. The right of appeal would be on points of law, as opposed to rental situations or dollar incomes or dollar expenses.

**Mr. Chairman:** Mr. Collins, may I just ask one question? It's really a two-part

question. We do have to break here, so I'll make it as crisp as I can. We have to be back at 1:30, and that's really directed to the committee, not to you. I'm sorry, I missed part of your presentation, so this may have been alluded to, but my question deals with the condominium market. Throughout all of Ontario, for a variety of reasons, a lot of completed condominiums have been put on the rental market.

[12:45]

**Mr. Collins:** Condominiums have been put on the rental market?

**Mr. Chairman:** Yes, condominiums that were built for sale purposes but were not sold for a variety of reasons have been put on the rental market. But specifically in the Kitchener area—and it is really a two-part question—

**Mr. Collins:** I don't believe that is a true statement, particularly in the Kitchener area.

**Mr. Chairman:** No, my question is, in the Kitchener area is that a phenomenon?

**Mr. Collins:** Oh, I'm sorry. I thought you were saying that's what is happening.

**Mr. Chairman:** Is that a phenomenon in the Kitchener area and, if so, how would it have affected your particular vacancy rates there?

**Mr. Collins:** I guess I can answer that with one statement. It is not true. As a matter of fact, if anything, the reverse of that is true: Rental projects are being converted into condominium projects.

**Mr. Chairman:** Okay. Thank you very much.

**Mr. Kennedy:** One very quick question: The vacancy rate seems quite high compared with what we are used to.

**Mr. Collins:** I realize that.

**Mr. Kennedy:** Are rents stable? Apart from rent review, are they holding stable?

**Mr. Walker:** Everything above six per cent.

**Mr. Collins:** I'm sorry. I don't know what you mean.

**Mr. Kennedy:** Because of what to me seems a high vacancy rate—six per cent—are rents holding stable rather than—

**Mr. Collins:** You mean on an annual basis?

**Mr. Kennedy:** On a renewal basis.

**Mr. Collins:** There are a number of landlords who are not taking a six per cent increase. They can't get it or they can't justify it from a market standpoint. They just can't

go that high because tenants can get the same type of suite for less money some place else.

**Mr. Kennedy:** That's what I was wondering. Thank you.

**Mr. Collins:** As we said, it's what the market pressures will bear.

**Mr. Chairman:** Mr. Collins, thank you for your time.

The committee recessed at 12:47 p.m.

## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
Campbell, M. (St. George L)  
Dukszta, J. (Parkdale NDP)  
Epp, H. (Waterloo North L)  
Kennedy, R. D. (Mississauga South PC)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Scrivener, M. (St. David PC)  
Walker, G.; Acting Chairman (London South L)  
Williams J. (Oriole PC)

### Witnesses:

Clarke, N., Parkdale Tenants Association  
Collins, D., Housing and Urban Development Association of Canada, Kitchener-Waterloo  
Kain, A., Downtown Tenants, Toronto  
Moritz, A., Parkdale Tenants Association









No. G-13

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection

### **Second Session, 31st Parliament**

Wednesday, May 10, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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## LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 10, 1978

The committee resumed at 1:44 p.m.

### TENANT PROTECTION

(continued)

**Mr. Chairman:** I see a quorum. Is Mr. Lang here? If you are about to begin, would you be good enough to identify yourself for the record.

**Mr. Lang:** My name is John Lang.

I am an independent appraiser, and I am also a part-time investor in real estate. I have one 26-unit apartment building at Bayview and Eglinton Avenue. I'll read my submission. It's just five pages.

The reasons and pressures for rent review: Due to a rapid inflation spiral, wage and price control and rent control was introduced as a temporary measure in 1975 and is now terminating in 1978. For all intents and purposes, however, the rent review act will be controlling rents through to December, 1979.

The system of rent review is probably expensive to administer and also very unfair to the silent majority of small landlords to whom the whole procedure and time involved in making a rent review application is too complicated and expensive.

Speaking for myself, I requested the application forms for rent review last year in order to consider raising the rents on the 26 suites that I own. The forms still sit untouched in my file right here. There's about one inch thick of them. They are so voluminous they really require a qualified accountant to properly complete them, which also of course involves his fees. I think most people like myself have held off on rent review applications in the hope that decontrol as promised would come about.

At this point in my submission, I am citing briefly a case that has just come to my attention and which will give you some idea of the injustice of rent review. Details are brief and sketchy, but nevertheless authentic. A 73-year-old man in Richmond Hill recently sold his 40-unit apartment building which was 18 years old; the sale price was \$700,000. This equates to \$17,500 per unit, which of course is below reproduction cost and is a very reasonable price. The purchaser

paid \$100,000, or about 14 per cent, in cash. The remaining \$600,000 was financed by way of a first mortgage back to the vendor of \$525,000 at 10¼ per cent interest only. There was also a second mortgage from the bank of \$75,000 at 11¼ per cent.

At the time of purchase, the building was under-rented and, of course, the 73-year-old owner was able to exist with that situation because he had no mortgage on the property, having paid it off. When the new purchaser with his \$600,000 worth of debt went to the rent review board for rent increases so that he could charge a fair rent and cover his mortgage payments, his application—I'd like to correct the brief here, it wasn't declined, he was given an award of 5.31 per cent increase. Thus we see an example of the gross inequity of the rent review process which, if allowed to stay on the statute books, will become more and more stifling as time goes by.

In the meantime, certain items of maintenance are deferred and accumulate. If you observe many of the postwar apartments in Metro, this deferred maintenance is often evident on building exteriors, as it is on my own building. It is not an enjoyable situation, as we take a lot of pride in our building and would like to keep it in excellent condition. At present rent levels I regret we are unable to do this.

The main question to be dealt with today is, of course, how to deal with the situation of rent control in the future. We know that rent control has a devastating effect economically and socially. It creates scarcity of rental accommodation and effectively turns off the supply of new rental units. It induces deferred maintenance and general deterioration of the existing rental housing stock. It deprives existing private owners of rental accommodation of basic rights in property law without any right to compensation for monetary loss or recourse to courts of law. There is, in fact, no logical justification for rent controls. What then is the reason for rent control? Surely, gentlemen, we know it is a political reason.

How, then, can we deal with the present situation? The excellent and very well researched green paper shows us in table five

on page 33 that termination of rent control is the answer. Indeed, termination is an urgent necessity to reverse the shocking decline in the supply of new rental units, which no generous amount of taxpayers' money under various schemes can seem to produce, for Metro in particular.

At this stage, I would state it as my opinion that the supply and vacancy situation is really only of some concern to Metro Toronto and that most of Ontario is in a good situation in this regard. I believe Ottawa is possibly the only other centre with a situation similar to Toronto's. The assumption of jurisdiction of the supply of low income housing by Toronto from the Ontario housing authority a few years ago has probably aggravated the situation here in Metro.

Figures of vacancy and new supply in Toronto, however, seem at odds with the columns of apartments for rent. For example, I have here a copy of the Toronto Star of April 22 and there are more than two pages of unfurnished apartments for rent. I'm sure you're familiar with that situation every day in the Toronto Star.

There is, therefore, still freedom of choice for tenants and a competitive market. This is all the more reason, therefore, for termination of rent control now. Continuation of controls will undoubtedly see such columns of apartments for rent disappear in time.

The question of affordability of rents following termination is an important consideration socially; and also the problem of unconscionable rent increases, if any. The latter could be dealt with by an informal landlord and tenant tribunal that is a level below the county court level which deals with it now, which could also deal with other landlord and tenant matters such as eviction, possession, collection of revenue and damages. Unconscionable rent increases would be defined as excessive in relation to the median rents for similar units in the same building or comparable units in the close vicinity.

In our particular building we are fortunate in that we do not have any serious landlord-tenant problems at all, and we do not visualize any problem of unconscionable rent increases or high percentage increases following termination. Our policy has always been to deal equitably with existing tenants in order to keep them as our tenants. A vacancy or a changeover, if we lose a tenant, involves extra expense, time and management and is therefore something we like to avoid.

As a result of rent control and the freezing of rents at the July 31, 1975 level, I think it was, we have six out of our 26 units at inequitably low rent levels, which of course are

subsidized by the other 20 tenants, unbeknown to themselves. It would of course be our intent to equalize these six rentals in a one to two-year time span when termination comes about.

In closing, I would remind you that the major number of rental units are owned by relatively small landlords earning less than \$20,000 per year. Most landlords, therefore, are small investors like myself who are full-time working people in society. I think we deserve fair treatment from government, the same as every other citizen.

I quote from a study carried out by the Appraisal Institute of Canada in October 1975: "If educated people can't or won't see that fixing a price below the market level inevitably creates a shortage, it is hard to believe in the usefulness of telling them anything whatever in this field of discourse." This quotation was taken from the American Economic Review of December 1949.

In closing I would say if you are as concerned as I am about the affordability of rental accommodation for low-income people, I suggest that you, ladies and gentlemen, do something about it for a change and take a much more positive action in looking after the housing of these people. It is a joint responsibility of society, through government, to help these people. It is not your right or anyone's right to impose this responsibility on the small private property investor through the method of rent control. Thank you.

**Mr. Chairman:** Mr. Lang, thank you.

**Mrs. Campbell:** On page three you have stated unequivocally that rent review "creates scarcity of rental accommodation and effectively turns off the supply of new rental units." Could you give us anything to demonstrate that statement? Have you any statistics—

**Mr. Lang:** I don't have statistics with me. My impression is that the assisted rental program and other federal and provincial schemes are creating a reasonable supply of new rental units outside the Metropolitan Toronto region. For instance, we have quite a high vacancy situation in Hamilton.

**Mrs. Campbell:** Yes.

**Mr. Lang:** In Barrie, for instance, I just ascertained this morning there's one large building going up and there are two more approved that are MURBs. These programs are extremely expensive, by the way, to the taxpayer. If the taxpayers knew what it was costing them, they—I've been approached about MURBs by various syndicates selling them and the profits being made by intermediaries on these deals are tremendous.



But to answer your question, I think the supply of new rental units in many areas outside Toronto is going towards being satisfactory. In Metropolitan Toronto we don't see that.

I don't have the statistics. But because of land costs in Toronto and the fact that the condominium market is a more viable thing for an apartment site it's just a dry situation.

**Mrs. Campbell:** So I guess it's fair to say you somewhat moderate your statement as it applies outside of Metropolitan Toronto—

**Mr. Lang:** Well I didn't say "unequivocally," I said it creates scarcity.

**Mrs. Campbell:** Well, you said it "creates scarcity" and "effectively turns off the supply of new rental units." I take it by your answer that you modified that by saying "Metropolitan Toronto."

**Mr. Lang:** That would be correct, yes.

**Mrs. Campbell:** Right. And you are aware of the fact, I'm sure, that prior to rent review there was for a period of time a lack of any new supply to any extent in Toronto, or in Metro Toronto.

**Mr. Lang:** Right. This again was created by the fact that the condominium was coming into being and everybody was converting rental condominiums under construction and rental units to condominiums.

**Mrs. Campbell:** Yes, I was aware of that.

**Mr. Lang:** There's no law to stop it.

**Mrs. Campbell:** The other thing on page three I don't understand: "The assumption of jurisdiction over the supply of low-income housing by Toronto from the Ontario Housing Authority a few years ago has probably aggravated the situation here." Are you not confusing two things, with respect? Toronto was the one with the housing authority; Toronto's housing authority went to the province.

It is true that Toronto is back in some of the non-profit housing, but it's not the same animal that we had as a Toronto housing authority.

**Mr. Lang:** My understanding was that OHC went out of business in Metro Toronto.

**Mrs. Campbell:** Oh, well OHC has gone out of business, but it isn't a case that Toronto has taken over from the Ontario housing authority, really.

**Mr. Lang:** Well, I take your word for it.

**Mrs. Campbell:** What happened was in the reverse order. But in Toronto it's true we don't have new housing for families. We have some senior citizen housing but that's largely provided by Metro.

In view of your expertise, can you help me with the situation—I welcome the fact that you're referring to a tribunal, as almost everyone has, a tribunal which would deal with all of the various aspects of landlord and tenant, rent review, housing standards, the whole thing.

Can you tell, me, short of that kind of a procedure, how you would suggest that if we had a reassessment of apartment units, we could ensure the passing through to the tenants of those savings?

**Mr. Lang:** On the reassessment under market value, yes.

**Mrs. Campbell:** I'm not talking about under market value, I'm saying that whatever the situation is, if we realistically assess an apartment unit it would be reduced, I would think, on any terms.

**Mr. Lang:** Yes, I was listening to the director of that department yesterday talking about reassessment. One of the problems is, as I see it, the scheme as it's going to be is that some apartments in East York and some in North York will get so much in reductions and other apartments in other locations may get more or less in reductions. It's going to be such an uneven thing. And I think you'll find that the procedure would be enormously cumbersome to administer, to make sure that landlords pass through to tenants the benefit of a realty tax reduction as a result of reassessment.

**Mrs. Campbell:** That was my conclusion, but I'm glad someone with your expertise has said it.

[2:00]

**Mr. Lang:** You see, about 20 of our apartment units are only about 500 square feet, junior one-bedroom units. The taxes on those apartments are \$500, a dollar a square foot. Now the taxes on my house, up near Yonge and the city limits, are about \$750. As a small landlord, I would gladly pay another \$200 or \$300 in taxes on my residence and see my apartment taxes go down. But most residential single-family dwelling owners aren't going to look at it that way of course. They're going to scream because they're going to pay another \$100 or \$200 in taxes. How to benefit tenants, I don't know.

**Mrs. Campbell:** Am I being fair to you in putting it this way: that the only way a tenant could get a passthrough on this situation is to have the ability to have the matter reviewed?

**Mr. Lang:** Let me put it this way: I'm against passthrough. I went to an assessment court last year and I got a reduction in my

assessment which benefited me to the tune of \$500 in one year. So you might say why didn't I spread the \$500 through to my 26 tenants? The fact of the matter is there are expenses at such a level that I was glad to get the \$500 to help me carry the building. We deferred painting the outside of our building and at this stage of the game I had committed myself to a contract that week for \$3,800 to paint the outside of the building, repair the cement, caulk around the window frames and this sort of thing, because it's looking tatty.

**Mrs. Campbell:** And it's to your advantage not to let your property further deteriorate.

**Mr. Lang:** Exactly; when my tenants walk in and out of the building I like them to think this is a nice place to live. So we have to borrow the \$3,800 and pay it back to the bank as fast as we can, so if we get a tax break from the Davis government on reassessment, that will help us pay back the \$3,800 that much quicker. The point is, in a socialist society, you'll want to see passthrough going back to the tenants; in a free enterprise society that doesn't enter the situation at all. We are subject to the flow of the market; if we get an empty apartment and we are asking \$245 for it, and it sits there three and a half weeks and we can't get a tenant for it, we're subject to the open market and we may have to drop the rent two dollars. Passthrough is a bureaucratic nightmare.

**Mrs. Campbell:** Yes, but have you ever been to rent review?

**Mr. Lang:** No.

**Mrs. Campbell:** You haven't?

**Mr. Lang:** I just haven't got the time. I'm making a living, I haven't got time to do that.

**Mrs. Campbell:** So in your case, you have not passed through any increase in taxes to your tenants either, if you've had increases over the years.

**Mr. Warner:** He didn't say that.

**Mrs. Campbell:** Well I'm asking.

**Mr. Lang:** How do you mean? I'm sorry, I don't quite understand you.

**Mrs. Campbell:** I'm asking you if, in view of the fact that you don't believe in passthrough of taxes where they're reduced, do you pass through to the tenant as part of your costs any tax increases?

**Mr. Lang:** We have taken advantage of the fact that we're allowed a six per cent increase.

**Mr. Hall:** But he didn't go to rent review.

**Mr. Lang:** No.

**Mrs. Campbell:** No.

Interjections.

**Mr. Lang:** That's another thing about rent review. If you say six per cent, seven per cent, eight per cent—every landlord does it if he can.

**Mrs. Campbell:** Yes, I can tell you that's a worry I have, but I don't know how you do anything else. It certainly creates the floor and not the ceiling, and it's not good.

**Mr. Lang:** That's right, it's an inflationary measure, like most government legislation. But I would say that if rent review was terminated as promised, we could equalize up those six units out of 26, which is nearly 25 per cent. Those six units are grossly undercharged and subsidized by the other tenants, and to equalize them up would reduce the increases that we would apply to the other 20—in theory, it would.

**Mrs. Campbell:** Thank you, Mr. Chairman.

**Mr. Chairman:** If I may, just one question first, and then Mr. Makarchuk has some. Mr. Lang, I'd like to do two things. You make reference on page two to the example of a building that was sold for \$700,000 and, looking in the back of your brief, I notice that your own background is in the investment business as an appraiser and so forth, which leads me to ask this question. I asked this of someone else last week and I didn't get a clear enough answer. When you talk about absolute numbers in this or in any other commodity business it's difficult to grasp; but that building must have been priced to yield a certain amount, bonds and any income-producing things are priced to yield. I'd like to get a handle on what's actually happened to the market price of rental buildings. We're under the impression there are really serious bankruptcy problems. We're under the impression, and I think it's a correct impression, that there is not much of a market now in that business.

**Mr. Lang:** That is correct.

**Mr. Chairman:** Therefore, the yields in those income-producing properties must have changed at lot in the last four or five years.

**Mr. Lang:** That's probably quite true. We have appraised a 22-suite building in a rather poor area in the Lakeshore-Mimico area and the property sold. It's about 25 years old, a two-storey, walkup type building with one- and two-bedroom units in it. We analysed about 12 sales in the western part of Toronto that are typical. All are walkups, and we found out they were selling for anywhere between 5.5 and 6.7 gross, approximately, whereas four or five years ago seven times gross would be a minimum.



The people selling this property were like the 73-year-old man in Richmond Hill. They had been getting on. They wanted to unload the management responsibilities and cash out. They sold for about \$525,000, I think it was, with a very low down payment of about \$35,000 or so and they took back a first mortgage for the balance. There was a negative cash flow, on our analysis, on current rents.

The person who bought this building was a dentist in Edmonton. I made the assumption that he bought the building with his eyes open knowing that he was going to lose about \$400 or \$500 in year one. He might still lose \$400 or \$500 in year two, depending on what happened with this new building and whether rent control would be terminated as promised.

**Mr. Duksza:** By whom? You said "as promised."

**Mr. Lang:** Let's say the rent review act expires on December 30, 1978.

**Mr. Duksza:** Sorry, I misunderstood you.

**Mr. Lang:** We've been led to understand several times before that certain things will happen, and of course then they don't. You can never be sure with politicians, right?

**Mr. Chairman:** Just so I understand this clearly, then, you're using this multiplier—we're talking about gross rents—so when you use that same instance, seven times gross, that building would now sell at 5.5 times gross. So the message is that people—

**Mr. Lang:** The message is the decline in value and the decline in the maintenance factor.

**Mr. Chairman:** Okay, thank you. Mr. Makarchuk.

**Mr. Lang:** And less desirability for this type of property on the market.

**Mr. Makarchuk:** In this project on page two, to what did you want the rent increased and from what? What were the figures that were rejected by the rent review people?

**Mr. Lang:** I have my colleague here. I think he knows a little bit more about it. His name is Mr. Schwartz. Would you mind if he answered that question?

**Mr. Schwartz:** I could answer that question. The rents in this particular building were approximately 25 to 30 per cent below the market level in that vicinity, on that same street. Therefore, according to the guidelines, the purchaser expected he would be granted an increase, more or less to that extent, which would either minimize his loss or possibly bring him to a breakeven position.

**Mr. Makarchuk:** What was the building grossing before the sale?

**Mr. Schwartz:** The building was grossing about \$96,000 a year, about \$8,000 a month.

**Mr. Makarchuk:** So, in other words, on this particular building, assuming the total cost was \$700,000, right?

**Mr. Schwartz:** Correct.

**Mr. Makarchuk:** His payments roughly would be about \$70,000 a year; this is taking into account the \$100,000 that has to be written off, it was his own money but we'll take that into account. In terms of interest and also the principal—

**Mr. Schwartz:** There was no principal. The building couldn't carry any repayments of principal because the interest, of 10.25 per cent on the first mortgage and 11.25 on the second, would leave no room for him to make any principal payments. Therefore his equity wasn't going to be increased for nearly two years, according to—

**Mr. Makarchuk:** You say he was grossing \$96,000?

**Mr. Schwartz:** Yes, \$96,000.

**Mr. Makarchuk:** Right; and his interest then would be about \$59,000.

**Mr. Schwartz:** More, because he was financing \$600,000.

**Mr. Makarchuk:** Right.

**Mr. Schwartz:** And \$525,000 of that amount was 10.25 and the rest was 11.25.

**Mr. Makarchuk:** Let's say, okay \$60,000. It'll be about \$62,000 or something like that. So he'd have about \$30,000 to play around with then.

**Mr. Schwartz:** Play around with?

**Mr. Makarchuk:** Well, for expenses.

**Mr. Schwartz:** Like what?

**Mr. Makarchuk:** Well I'm not sure, you see, I'm just—

**Mr. Lane:** Hydro, taxes—

Interjections.

**Mr. Schwartz:** A trip around the world, maybe?

**Mr. Chairman:** Mr. Schwartz, may I, again, I come back to this. I think we all have some difficulty with the absolute numbers. We're talking big numbers here, \$700,000 and a \$96,000 gross, but could you tell us—because we all have some familiarity with what it costs to borrow money today, we all have some idea of what we get in the way of interest on savings accounts and other bonds—what kind of a gross yield, I keep coming back to that, but



what does \$96,000 represent in terms of the investment there? That would help us.

**Mr. Schwartz:** Okay, now—

**Mr. Chairman:** A percentage.

**Mr. Schwartz:** Right; let's forget about financing, because the old owner didn't have any mortgages. Now out of the \$96,000, he would be left with, possibly \$50,000. In other words, taxes, heating, everything else—repairs, the building is 18 years old, the repair bills are increasing; if he were left with \$50,000 I would say that would be a fair estimate.

**Mr. Rotenberg:** You say the new owner has a deficit of \$10,000 then?

**Mr. Schwartz:** The new owner has a deficit of about \$9,000 a year in cash flow I understand.

**Mr. Rotenberg:** Without principal payments?

**Mr. Schwartz:** No principal payments involved at all. Well mind you, this is the first rent review decision, to be fair I must add that. Up until now we've had decisions which did recognize financial loss, but then spread that loss over two and three years—and in my brief I mentioned that if you spread a financial loss over two or three years you render it really meaningless—it doesn't mean really that you're doing anything about eliminating that financial loss. This is the first decision, and it was only taken on May 3. It's a milestone as far as I can see, where contrary to all the guidelines a rent review officer has made a decision where he's totally disallowing mortgage payments on a building.

Apart from bringing the new owner to the brink of financial disaster, let us stop for a minute and think what this decision means in terms of the seller—and all the other people who have reached the stage in life. This man is 73 years old, he's too old and too sick, perhaps, to look after a 40-unit building and he wants out, he wants to sell. If it became generally known, to the investing public that no financing costs will be allowed that means the only way to buy is cash. Now we all know that has never happened and never will, people don't pay cash for a building. Therefore, from the point of view of the seller, it becomes an unsaleable item. He is stuck with a building and he cannot get out. We're back to feudal times.

[2:15]

I think that this decision—which incidentally is not final, it will be appealed and hopefully reversed—but as it stands now, in the way rent review may operate, it means

trouble for anybody who somewhere along the way invested in an apartment building instead of any other real estate investment. It doesn't apply to others, but only those who invested in an apartment building. They may have to sell it for a song. I don't know what else they could do.

**Mr. Makarchuk:** When he went to rent review, did he say he had, at that time, any expenses for maintenance?

**Mr. Schwartz:** Who?

**Mr. Makarchuk:** The new purchaser.

**Mr. Schwartz:** Everybody does.

**Mr. Makarchuk:** Well, did he?

**Mr. Schwartz:** In this case he had laid out money for repairs. The decision that he received from the rent review officer was an increase of 5.31 per cent. That's all he got, because—

**Mr. Makarchuk:** What I'm trying to ascertain here is whether in this case the rent review officer passes through the costs of repairs as a legitimate reason for increasing rents.

**Mr. Schwartz:** In this case the issue is not passing through the maintenance cost. The case was brought up as an example of what rent review decision could mean if no financial cost is recognized as a passthrough cost, this is what I am saying.

**Mr. Makarchuk:** Wait a minute. One thing I assumed from this is there is a certain hardship imposed upon the new purchaser because he was unable to pass through this cost of maintenance.

**Mr. Schwartz:** No, that isn't the point.

**Mr. Makarchuk:** That isn't the case, okay. Then what you're saying is the \$96,000, his gross—

**Mr. Schwartz:** Of course his gross.

**Mr. Makarchuk:** Yes, okay. Did that include the six per cent increase that was allowed or was there a six per cent on top of that?

**Mr. Schwartz:** This was the gross of the old owner who sold it.

**Mr. Makarchuk:** That's right. Did the old owner take advantage of the six per cent increase that was allowed to him?

**Mr. Schwartz:** I understand that because he was the first owner—the one who built the building and owned it all through the life of the building—he didn't really take advantage of raising rents as he could have on the open market. This goes back to pre-rent-control days.

**Mr. Makarchuk:** Yes, but he never took advantage of—

Mr. Schwartz: He may have taken advantage of the six per cent, I'm not—

Mr. Makarchuk: But you don't know?

Mr. Schwartz: You mean the year before?

Mr. Hall: Wasn't it stated that the rent was 25 to 30 per cent less than the rent in the area?

Mr. Schwartz: That's exactly—

Mr. Hall: That should answer the question, shouldn't it?

Mr. Schwartz: Yes.

Mr. Makarchuk: All right, okay; then he didn't. So the new purchaser had the option to increase rents by six per cent?

Mr. Schwartz: He did have the option, yes.

Mr. Makarchuk: Did he take advantage of it?

Mr. Schwartz: No, because he needed a lot more than that in order to be able to break even. He had a mortgage—

Mr. Makarchuk: I question the—

Mr. Schwartz: —interest to pay, which the old owner didn't have; and because the rents—

Mr. Makarchuk: I question the argument he had the option of breaking even, whether he was really that hard up. If you look at his gross—and I don't know your costs, I don't know what your taxes are, I don't know what your heat, or whether the heat was included in apartments or not—but if you put your six per cent on top of your \$96,000 that brings it up to close to about \$97,000 or \$98,000. He's got about \$30,000 above his interest to play with. Does he include his light, heat?

Mr. Schwartz: Mr. Makarchuk, the rent review officer disallowed the finance cost but allowed everything else—which took care of the six per cent, okay?

Interjections.

Mr. Williams: As a matter of interest sir, could I ask you which rent review officer you went through in this particular case?

Mr. Schwartz: I could give the name to you, I don't know whether I should make it public, but—

Interjections.

An hon. member: It's under appeal and perhaps—

Mrs. Campbell: Perhaps we shouldn't discuss it publicly if it's under appeal.

An hon. member: Yes.

Mr. Schwartz: But I could give it to you privately.

Mr. Williams: All right.

Mr. Chairman: We have several more questioners—Mr. Charlton, Mr. Epp, Mr. Kennedy.

But Mr. Schwartz, if you'd bear with me and help me a bit here, and perhaps other people on the committee.

Mr. Schwartz: Yes, glad to.

Mr. Chairman: I had a couple of side conversations so I didn't follow exactly everything. I think I got the gist of it. I want to go back, though, to this business of the return or the yield—

Mr. Schwartz: Right.

Mr. Chairman: —on this \$700,000 investment. This apartment building grosses \$96,000 a year. You said about \$46,000 went for expenses, leaving about \$50,000.

Mr. Schwartz: It could be less. We're talking in round figures.

Mr. Chairman: That's in round numbers. But as I do my arithmetic, \$50,000 on \$700,000 is a yield of about seven per cent, which is significantly lower than other investments that people can make.

Mr. Schwartz: The owner took a mortgage back and got 10½, which is more than seven; so he was better off to sell, but—

Mr. Chairman: Yes. But I am talking about the buyer. I am talking about the new money. The \$700,000 could have gone into a Canada Savings Bond at 10 per cent or whatever the heck it is.

Mr. Schwartz: Of course; right.

Mr. Chairman: Okay. That helps me.

Mr. Schwartz: Right.

Mr. Hall: I thought he could raise his rent. It would seem to be logical to expect that he could raise his rent, which was 25 to 30 per cent lower when he had these legitimate costs, but lo and behold, he finds out when he goes that he can't raise his rent. He's made a bad investment.

Mr. Chairman: Excuse me. We had better stick with the list. Mr. Charlton, then Mr. Epp and Mr. Kennedy.

Mr. Rotenberg: Could you put my name on the list, please? I want to pursue this matter when it's my turn.

Mr. Charlton: If I could just get Mr. Lang back for a moment: You were talking about this building. I believe you said it was a 22-unit walkup.

Mr. Lang: Yes.

Mr. Charlton: Is it a fairly old building?

Mr. Lang: About 20 or 25 years old.

Mr. Charlton: And you said when you were checking sales in the area of similar buildings that the multiplier was down to between five and a half and six or seven, I think.



**Mr. Lang:** Between about five and a quarter and six and a half.

**Mr. Charlton:** That was in 1977 or this year?

**Mr. Lang:** Earlier this year, yes.

**Mr. Charlton:** How much of that depression in the market for walkups do you think is a result of rent review? Is that what's causing it?

**Mr. Lang:** I would say the whole thing would be causing it, yes. In the case of this Richmond Hill property, if the gross was \$96,000, it sold very close to seven times gross. But it's quite possible, as the gentleman over here said, that the purchaser either made a bad investment or paid top dollar for it. It's a more modern building, although in Richmond Hill the rent levels wouldn't be that much higher than in the lower west end.

**Mr. Charlton:** The reason I raised that is that in Hamilton we did a sales analysis of walkups in 1974-75, and the multiplier was down to a median of about 6½ in 1974-75 before rent review.

**Mr. Lang:** Hamilton is a lower market.

**Mr. Charlton:** What we found, though, was that the multipliers ranged from about four and one half to about 10. Obviously some of those were bad sales—

**Mr. Lang:** Or different kinds of quality.

**Mr. Charlton:** What we found for the most part in the walkup circumstance was that the multiplier was to a large degree related to the age and condition of the building as well as to the gross rent. Obviously an investor isn't going to pay as much for a building that he's going to have to do a lot of work on as he is for one that he doesn't. As I say, on walkups as an individual entity in 1974-75 it was already down to about 6½.

**Mr. Lang:** He's got to have the income, though, to do the maintenance. I think most landlords today are finding it's getting tighter and tighter. How long have we had rent control now? Nearly three years, I suppose. It's getting tighter and tighter to spend the money on—well, I would say landlords are trying to economize very heavily on painting and decorating and things like that. It's about the only thing one can cut back on.

**Mr. Charlton:** All I was trying to point out was that I don't think in the case of walkups that the fact that the multiplier is down from the proverbial seven is necessarily because of rent controls. In fact, that process started prior to rent review.

**Mr. Lang:** I can't agree with you there, really.

**Mr. Charlton:** You don't think it was happening at all prior to the fall of 1975? You are saying it was still up at a full seven even for walkups?

**Mr. Lang:** I wouldn't say that definitely, no.

**Mr. Charlton:** For example, in 1974-75 the walkups were down to six and a half as an average. The highrises were up at the full seven.

**Mr. Lang:** I think with the research we've done in Hamilton now you would find that the gross income multiple would be down from what you did in 1974.

**Mr. Charlton:** It's quite possible, because unfortunately I haven't been there to do it in terms of the job I was doing.

**Mr. Lang:** It has to be down. We have found that typically the operating expenses before mortgage interest have been climbing steadily on all apartment buildings over the last eight or nine years.

On a typical walkup like we have, or down on the Lakeshore there, your expenses might have been running around 40 per cent; you are lucky now if they are under 50 per cent gross. In Richmond Hill, on that \$96,000 gross, on a modern building, probably about 15 or 17 years old, I would have said the expenses realistically, if the guy is doing proper maintenance, would probably be around 45 per cent of gross—45 to 50 per cent. I would say his expenses would be more like \$45,000 to \$48,000 out of the \$96,000. Then he has got interest on \$600,000, which is going to be \$62,000. He needs about \$110,000 to \$115,000 to break even, and he is getting no return on his \$100,000 down payment.

**Mr. Charlton:** I am not arguing with you on that. The only point—

**Mr. Lang:** No equity repayment at all.

**Mr. Charlton:** The only point that I was trying to make is that in my view, from what I have seen and from the kinds of comments we got from landlords in 1974-75, the decline in the process had already started prior to rent review, especially with regard to older buildings.

**Mr. Lang:** You haven't done your survey since 1974.

**Mr. Charlton:** It's being redone now. I suppose we could probably get some of the analysis from the Ministry of Revenue.

**Mr. Epp:** Thank you very much, Mr. Chairman, particularly since you tried to cut me off. Mr. Lang or Mr. Schwartz, I am interested in this rent review officer's decision not



to include the mortgage payment as part of the pass-through costs. Was there any rationale given for this most unorthodox decision?

**Mr. Schwartz:** His rationale was that the purchaser should have ignored everything else—cost of reproduction, market rents, everything—and accept the cash flow that existed, and pay for the building maybe \$450,000 or \$500,000 all in cash. I can't see any rationale for it. This is one case where the decision went further towards both endangering the financial being of a purchaser and depressing the values of real estate for the existing owners. It is almost confiscatory.

By his decision, he was saying: "I declare that this building, regardless of replacement cost, or whatever rents could be charged reasonably; I declare that because the previous owner simply chose to charge 25 or 30 per cent less, therefore his building is worth no more than X dollars."

[2:30]

The old owner had a grandson who was occupying one of the two bedroom apartments and paid \$145 a month. This rent review officer allowed him an increase of \$7 to \$152 for a two-bedroom apartment, applying the same percentage across the board. A two-bedroom apartment in the vicinity is renting for about \$270 a month.

**Mr. Epp:** It seemed that the rent review officer was overcome with logic and emotion and everything else.

**Mr. Schwartz:** Well, his kind of logic.

**Mr. Makarchuk:** Would he take the six per cent or not? The point is that without going to rent control he could have increased it six per cent.

**An hon. member:** He should have. He could have gone to rent review.

Interjections.

**Mr. Schwartz:** He believed what he read in the act and he believed what he read in the guidelines. He believed that a review officer shall take into consideration a financial loss and act accordingly. As far as this particular rent review officer was concerned, he misjudged it completely.

**Mr. Epp:** Can I just ask you a question which I think is fair? Was this a new rent review officer?

**Mr. Schwartz:** No, he's a senior rent review officer, whatever that means.

**Mrs. Campbell:** It means he's senior, whatever that means.

**Mr. Schwartz:** He's been around for a while. I've heard stories about his decisions, which make some landlords very unhappy to

say the least. He's been around for at least two years.

**Mr. Epp:** Was this an arm's length transaction?

**Mr. Schwartz:** I'm glad you asked that. Yes, it was arm's length. These two people have nothing in common and don't know each other completely. It was an arm's length transaction.

**Mrs. Campbell:** The new owner doesn't want to know him either.

Interjections.

**Mr. Chairman:** Go on, Mr. Schwartz.

**Mr. Makarchuk:** This is rather an interesting case, and I'm rather suspicious of some of the things that are given here.

**Mr. Kennedy:** Is this under appeal?

**Mr. Makarchuk:** Could we get the actual case from the rent review board so that we could look at it?

**Mr. Chairman:** The point has come up and—

**Mr. Makarchuk:** It seems to me there's something fishy about this.

**Mr. Schwartz:** It's interesting to hear that comment from you, sir, on that case, because by his decision he has in a way implemented what you gentlemen on the left are saying all along.

**Mr. Duksza:** That doesn't necessarily mean that rent review can be judged from that general statement.

**Mr. Epp:** I've got the floor, Mr. Chairman. Interjections.

**Mr. Makarchuk:** He is making 36 per cent on this investment there too, and that's not a bad return.

**Mr. Duksza:** I think it's a terrific return on the capital invested.

**Mr. Makarchuk:** As a matter of fact, that's not a bad deal.

**Mr. Hall:** Why don't you buy the building then?

**Mr. Chairman:** Order please; Mr. Epp still has the floor.

**Mr. Epp:** There's great logic and tremendous economics flowing around here, but irrespective of that can I ask one further question either of Mr. Schwartz or Mr. Lang: How much do you think that rents would have escalated in the last three years had we not had rent control or rent review?

**Mr. Schwartz:** It depends on which areas—

**Mr. Epp:** I'm primarily interested in Metro Toronto as opposed to the rest of the province.

**Mr. Schwartz:** How high would rents escalate if we had no rent review?

**Mr. Epp:** In the last three years.

**Mr. Schwartz:** I would say that it would vary from area to area and from district to district. I would say that obviously there would be an attempt by owners of buildings in a certain core area to take advantage of their location and charge more than they were charging under rent review. I can also see where the market would control them in a way that if they did make such an attempt, to charge 10 and 12 and 15 per cent and more, that people would actually move out of their buildings and decide to take a 10 or 15-minute ride by bus or subway. Eventually, after an initial attempt at higher increases, I could see where they would level off at somewhere around maybe 10 per cent. I cannot see any drastic increases.

But bear in mind that the factors involved in running an apartment building, such as oil, gas, property taxes, all these things would have a decisive impact on the increases. Perhaps they would have to increase 10 per cent just to break even, to pass through the costs. That doesn't mean that the landlord, after passing through the cost, that he's really at an even level, that his absolute dollar remains the same. With inflation going at the rate of nine per cent, or whatever, if he was making a dollar yesterday and a dollar today and a dollar tomorrow, that dollar shrinks in purchasing power to 80 cents and 90 cents, et cetera.

**Mr. Makarchuk:** Mr. Chairman, can we make it a point that this committee get this particular decision?

**Mr. Schwartz:** This case is under review. It is being appealed and until a decision is made by the appeal board I really have great reservations. We may be jeopardizing the position of the man who is appealing.

**Mr. Makarchuk:** No, I don't think that's a matter that this committee can affect. The committee has absolutely no input one way or the other into the appeal process. All I wanted, from my point of view, is to look at it in terms of confirming the figures that are being given here as to who pays for what and so on, but I think this information would be available in the statement that would have been filed with the rent review officer and, also, there would be in there a decision on what basis the rent review officer made his decision. It would be interesting for us because this is one of those kind of things that, whether the man is right or wrong, I think we should examine because it directly impinges on what we're doing here. If we have

this kind of hardship, which I question, but if it's such a hardship I think it's normal for us to look at it and see if the facts are what they are.

**Mr. Williams:** Mr. Chairman, I think it's totally inappropriate for this committee to be dealing with a specific application that's in process let alone to be dealing with past specific applications. I suggest that's not the function or purpose of this committee. We're here to deal with the whole principle of rent review and not to replace the jurisdiction and responsibility of the individual rent review officers and officers around this province. It would be totally inappropriate for this committee to deal with this specific application, particularly in view of the fact that it's in the process of appeal at this time. I'm totally opposed to the idea.

**Mr. Makarchuk:** Mr. Chairman, I move that we obtain the details

**Mr. Chairman:** This thing has come up—this is the third time now—and it's broken the line of questioning and this is the third occasion. Let's dispose of this now, and if disposing it comes through the form of a motion then I'm willing to entertain a motion.

**Mr. Makarchuk:** I move we obtain the details on this rent review hearing, the rent review officer's decision and everything associated with it so the committee can examine it in camera if necessary.

**Mrs. Campbell:** Are you a member of this committee? If not it won't be necessary. Let's be sure.

**Mr. Rotenberg:** Mr. Chairman, as a member of this committee, I think I would be a valid substitute.

**Mr. Chairman:** Do you want to make the motion?

**Mr. Rotenberg:** I would like to ask a couple of questions before I make a motion on that point. It's not my turn to question, Mr. Chairman, since you've been jumping around on this building. If it's my turn now to talk about this particular case I will, and if you want me to wait my turn, I will, but I would like to pursue it.

**Mr. Chairman:** Let me be clear. I don't want to talk about this particular case. I want to proceed ahead with the questioners on the list and the other witnesses who are now waiting. But it has been raised two or three times and I would like to, one way or another, quickly dispose of this line of questioning. That's my point.

**Mrs. Campbell:** There is no quick way.



Mr. Chairman: Yes, that's true.

Mr. Rotenberg: Mr. Chairman, when it's my turn I'd like to put a question. I may or may not make the motion after I get the answer.

Mr. Makarchuk: We really don't know what we're talking about.

Mr. Rotenberg: Maybe you don't know what you're talking about.

Mr. Chairman: The technicality is a correct one.

Mr. Rotenberg: It's very plain to me that he doesn't know what he is talking about, but I want to confirm it.

Mr. Chairman: Mr. Makarchuk is not a member of this committee and cannot move a motion. That is our problem at the moment.

Mr. Duksza: I move the same motion.

Mr. Rotenberg: Mr. Chairman, before we—

Mr. Chairman: Just a minute, there's a motion on the floor. Is there a seconder?

An hon. member: I'll second it.

Mr. Chairman: It's been moved and seconded. Now let's deal with this quickly.

Mr. Rotenberg: Mr. Chairman, can I ask questions in order to deal with some further details?

Mr. Schwartz: Mr. Chairman, I have in my hand a decision of that case signed by the rent review officer. All the figures that I have quoted are from this document, so just to assure Mr. Makarchuk that this is not just some case taken out of nowhere, I just want to make the point that this is a definite case and all the figures mentioned are authentic.

Mr. Breithaupt: Perhaps, Mr. Chairman, we could ask that this decision be tabled with the committee. It obviously is a public document if copies of it are available now; the matter of the appeal is something else. We might be able then to have the material available to us as we discuss our report in due course, and we will be able to get on from this particular detail of a case for which none of us has seen the evidence and get on with the work of the committee. Then we don't have to get a file from the office; we have the information.

Mr. Chairman: Mr. Williams?

Mr. Rotenberg: May I ask a personal question? Are we discussing the motion to ask questions of the witness?

Mr. Chairman: No. Mr. Williams is speaking to the motion, not to the witness.

Mr. Williams: Mr. Chairman, I have to respectfully disagree with Mr. Breithaupt.

Either we go all the way or we stay completely out of this particular case. To table part of the documentation while the matter is in process would be totally inappropriate, because it is obviously going to be used to discuss the matter in this committee. I think it is going to prejudice the hearings if this matter comes forward to the committee for discussion to any extent whatsoever.

Up until now, we have been talking about figures, without naming names and individuals; I think that is acceptable. But with respect, I think it would be wrong to table that document. If you are going to table it, then I would support the motion to bring everything in. Otherwise, I think it's totally wrong to do any of it. I would suggest, Mr. Chairman, that we not ask that this document be tabled and that we get on with other matters if the vote is going to be taken against the proposal.

Mr. Breithaupt: I withdraw my suggestion then.

Mrs. Campbell: Mr. Chairman, a *prima facie* case of hardship has been brought to our attention. I heartily concurred with Mr. William's position. On the other hand, somewhere along the line, if we are going to be asked to deal with passthrough of this kind of cost, as I presume we are, I would like to have some kind of a for-instance that I could look at on the other side of the table.

Can we not get from Mr. Schwartz the detail without identification of the person? If he could undertake to give us just the breakdown of the detail and, if there are any reasons, what the reasons were, then that would satisfy me in dealing with the matter in principle.

I wonder if that isn't perhaps some kind of a solution. I do not want the specific case information; I think it is quite wrong for us to have that tabled here, particularly when there is an appeal pending. But I would see nothing wrong with having the material before us, anonymously, if you like, as a breakdown of a case. If Mr. Schwartz could help us there, I think it would be useful.

Mr. Chairman: There are three people on the committee who would like to speak to the motion: Mr. Charlton, Mr. Rotenberg and Mr. Hall.

Mr. Williams: I would like to ask Mrs. Campbell a question on that. I am wondering if the same purpose could not be served by instructing counsel to obtain records from rent review of some similar cases without involving this group or this individual in any way whatsoever.



**Mrs. Campbell:** That's even better. I concur in that suggestion.

**Mr. Hall:** We could leave it to Mr. Robbins to provide some examples.

**Mr. Schwartz:** I can add that Mr. Robbins is aware of this case.

**Mr. Chairman:** Speaking to the motion: Mr. Charlton.  
[2:45]

**Mr. Charlton:** Mr. Chairman, I am not particularly concerned about how we get the information as to whether the case is identified or not. Obviously these documents are public documents now. We as a committee shouldn't be dealing with any specific case like that in a public hearing anyway. We are going to deal with it in camera when we are discussing our approach to our report. And I don't—

**Mrs. Campbell:** Who says we'll be in camera?

**Mr. Kennedy:** We are not going to be in camera.

**Mr. Charlton:** In a specific case like that we obviously should be, that's what I am saying. The point is that I don't think we should be getting the documentation from Mr. Schwartz. We have the rent review office to go to. If we want to request the documentation without a name and without an address, that's fine. Part of our job is, I suppose, to decide about the future of rent review. But if we decide that some form of rent review has to exist we have to know the kinds of problems that have gone on in order to determine the solutions; and we have to have the detail of this kind of a case.

**Mr. Chairman:** There are three more comments on the motion and then we will put the motion.

**Mr. Rotenberg:** Dealing with an anonymous case, my understanding is that there was a person owning an apartment building who got \$96,000 gross. He had about \$50,000 expenses and had about \$46,000 cash in his pocket. He turned around and sold the—

**Mrs. Campbell:** This case is the reverse from that.

**Mr. Rotenberg:** These figures are approximate. I understand the man sold the buildings for \$700,000, of which \$100,000 was cash and a \$600,000 mortgage taken back.

**Mrs. Campbell:** That's what it says.

**Mr. Rotenberg:** The new owner has \$96,000 gross, the same \$50,000 expenses leaves him \$46,000 excess, except that the new owner has something like a \$60,000 mortgage payment. This left him \$14,000 in

the hole. The rent review, as I understand it, allowed him a five point something per cent increase. This is really a \$5,000 increase in rents which brings it up around \$101,000. Therefore the new owner is left with a \$9,000 deficit.

In this anonymous case, which I really don't care to identify, I understand that the rent review officer said that for whatever reason, because the previous owner had no mortgage payments, he wouldn't allow this \$60,000 mortgage payment as a legitimate expense to be considered and passed through.

Without in any way identifying the case, Mr. Schwartz apparently has a document from rent review. Getting the name blocked out and so on. I would like to get some confirmation that the figures I have just given are approximately correct. I'd also like to find out—again without identifying the case—if there were any reasons in judgement why a rent review officer would disallow \$60,000 in mortgage payments in considering the judgement on this particular case.

I think it is very important, as an anonymous case, if we are going to continue rent review, to discuss several things, such as when a building is sold and suddenly there are mortgage payments that weren't previously there, how do we treat a new owner? Is it all the same year? Is it spread over several years, as some rent review officers said? Do we disallow it, as this rent review officer has said? There is another point. The owner who had no mortgage payments charged less than market; if we let the new owner go on market value in the area rather than on previous as a base, then it might—well, I just think there are a lot of facts to come out of this. I would like to see this case brought before us anonymously, and publicly because it has been mentioned in public—and have the numbers confirmed. Confirm, without identifying the case, any reasons given by the rent review officer.

If there is a motion, as I understand there is, that the thing be brought forward anonymously I would like to support that motion. I would like to confirm the figures which I have given, which is my understanding of the case as it has been put forward.

**Mrs. Campbell:** Is there not an amendment of that motion by Mr. Williams that it be referred to Mr. Robbins?

**Mr. Rotenberg:** Mr. Chairman, I can see no reason why, as an unidentified case, it can't be—anybody can walk into rent review and get a copy of the decision anyway, it's a public document.

**Mr. Williams:** It's still in process.

**Mr. Rotenberg:** It's a public document.

**Mr. Williams:** Right, but the hearing is still in process.

**Mr. Rotenberg:** It's not before the courts.

**Mr. Williams:** You are interfering with—

**An hon. member:** We're not interfering by having it tabled.

**Mr. Chairman:** Excuse me, there are three more people who wish to speak to the motion—Mr. Hall, Mr. Makarchuk and Mr. Epp. We are 20 minutes into the next witness's time already.

**Mr. Hall:** Briefly, Mr. Chairman, I feel the information is of a nature that would be helpful to the committee. However, I feel that inasmuch as an individual is appealing this particular circumstance, our sources of such parallel facts, if indeed any exist, should be by general request from Mr. Robbins, the rent review officer who has already appeared before this committee, and not from individual people that are appearing before the committee.

**Mr. Chairman:** Thank you, Mr. Hall. Mr. Makarchuk, briefly please.

**Mr. Makarchuk:** I've got the motion up there, it's been rewritten a bit. Basically, in the first place, it doesn't matter what the committee does; in no way does that affect the rent review. The rent review hearing is a totally new hearing that sets out new facts on everything; it does not take into account anything that's happened before, we have to understand that. There is no way that this committee can, should or would affect any decision of the rent appeal board; that's the other point that should be understood.

And the third point in the motion, I did include that the names, the addresses, the purchasers, the sellers be deleted—that from the information be supplied, those be deleted. Basically it's a matter that, whichever way you look at it, if there is something we feel is unfair, we should look at it. It impinges directly with what we are considering in this committee and I think we have to see it.

**Mrs. Campbell:** Let me see the motion before we proceed.

**Mr. Epp:** As a point of clarification, I wonder whether Mr. Schwartz can tell us whether the rent review officer indicated that the loss should be phased in over three or four years, or something of that nature.

**Mr. Schwartz:** No, sir, he completely disallowed the entire item of mortgage payments, taking the position that at the time of

sale the building had no financial loss, that was his position.

**Mr. Epp:** Mr. Chairman, with respect I would suggest we not ask that this particular document be tabled, because I don't think we want to set a precedent here where something is going to go to a review committee and we're going to somewhat prejudice the decision of that.

I can appreciate what Mr. Makarchuk said. You must remember, however, that the minutes of what we say are published here, through Hansard—what's gone on and so forth—and it could be used in some negative or positive way at the review hearing. I would respectfully submit that we vote against this motion.

**Mr. Chairman:** We'll have the motion read now.

**Clerk of the Committee:** Mr. Duksza moved that the committee obtain all details regarding a rent review decision raised at a committee hearing by Mr. Schwartz and John S. Lang, and that all information relating to ownership and seller be deleted.

**Mr. Rotenberg:** The information from whom? From this delegation or from the rent review board?

**Mr. Makarchuk:** From rent review.

**Mr. Rotenberg:** Well then, put it in the motion.

**Mr. Williams:** May I make an amendment, Mr. Chairman? I move that appropriate sample cases that have been decided and resolved by the rent review process be requisitioned by staff to be brought before this committee for consideration.

**Mr. Rotenberg:** This is the only case.

Interjection.

**Mr. Williams:** We'll know that when the staff reports back to us, but that is the amendment, Mr. Chairman—

Interjections.

**Mr. Warner:** Point of order.

**Mr. Chairman:** David.

**Mr. Warner:** I'd ask the chairman to rule that—

**Mr. Williams:** Just a minute, I haven't finished.

**Mr. Warner:** I have raised a point of order and been recognized by the chair. What the member has raised is not an amendment, it is contrary to the spirit of the motion which has been put forward by Mr. Duksza and therefore—

**Mr. Williams:** You haven't even heard the motion, how can you—



Interjections.

Mr. Chairman: David, your point has been made.

Mr. Williams moves by way of amendment that precedents of the nature of that under discussion be requisitioned from support staff for presentation to the committee for purposes of further discussion of passthrough of cost problems associated with rent review.

You've heard the amendment. Is there a seconder?

Interjection.

Mrs. Campbell: It adds to it, that's all.

Mr. Chairman: Vote on the amendment first?

All those in favour?

Opposed?

Looks like five to four.

Do that again.

All those in favour of the amendment please, just so I can see.

Opposed to the amendment—

Interjections.

Mr. Rotenberg: I would like to put a question to Mr. Lang who was with the deputation.

Mr. Chairman: Hang on. I want to ask what happens to the motion here.

Mr. Rotenberg: The motion as amended?

Mrs. Campbell: I thought it had passed.

Mr. Rotenberg: The amendment has.

Mrs. Campbell: The amendment passed.

Mr. Rotenberg: The motion as amended.

Mrs. Campbell: The motion as amended.

Mr. Charlton: Can we call the question?

Mr. Chairman: Are we ready for the motion? All those in favour of the motion.

Mr. Epp: I would respectfully submit that this should be ruled out of order and we should go along separately. If you're going to vote on the amended motion, it's different, the issue is finished.

Mr. Duksza: We just amended the motion.

Mr. Chairman: Mr. Makarchuk, aren't you glad you came in? I know I am; I'm delighted you're here. What are you doing next Wednesday?

Mr. Makarchuk: I don't have any problems.

Mr. Chairman: Do you want the original motion reread—the motion as amended?

Mr. Rotenberg: The motion as amended has passed.

Mr. Chairman: What are we waiting for now?

Mr. Samis: The motion as amended.

Mrs. Campbell: Are we going to report from this committee by June 15?

Mr. Williams: Next year.

Mr. Chairman: Unbelievable.

Mr. Makarchuk: He wants to clarify his own amendment.

Mr. Williams: The amendment is carried, but if the main motion is defeated, then what is the status of the specific case before us?

Mrs. Campbell: It's the motion as amended.

Mr. Williams: That's not included in the motion?

Mr. Chairman: That's right.

Mrs. Campbell: It is included in the amendment, as I understand it.

Mr. Kennedy: The issue is completed, I suggest, Mr. Chairman. The motion as amended was passed.

Mr. Chairman: No.

Mr. Duksza: The amendment passed.

Mr. Rotenberg: Just take it vote by vote.

Mr. Chairman: Just hold on. Let's just go slow here. The motion dealt with a very specific case, the one that Mr. Schwartz brought to our attention.

Mr. Charlton: That was defeated.

Mr. Chairman: No, we haven't voted on it yet. The amendment enlarged that to include the results from appeal boards that dealt with similar kinds of cases. We have passed the amendment.

Mr. Warner: The motion as amended.

Mr. Makarchuk: It was one of his more enlightened amendments.

Mr. Williams: Thank you.

Mr. Warner: We now must vote on the motion as amended.

Mrs. Campbell: Question.

Mr. Williams: My motion is to include this specific case, which was not the intention of the original, that this specific case be incorporated.

Mr. Epp: You're too late now.

Mr. Chairman: Order, please.

Mr. Duksza: Do you have a price tag on what you are doing?

Mr. Chairman: We have so far, for 30 minutes, kept some other witnesses waiting.

Mr. Charlton: Call the question.

Mr. Chairman: Mr. Breithaupt has the floor.

Mr. Breithaupt: Mr. Chairman, it would appear that if it is your intention to have Mr. Williams' suggestion approved, then since



you have accepted that as an amendment to the original motion and that amendment carried, in order to have Mr. Williams' idea it will be necessary to defeat the motion as amended and then have Mr. Williams' motion put separately.

Mr. Kennedy: Mr. Chairman, you accepted the amendment to the motion.

Mr. Chairman: Mr. Kennedy has the floor.

Mrs. Campbell: He accepted it as an amendment to the whole motion.

Mr. Chairman: Right.

Mrs. Campbell: Yes, and I supported it.

Mr. Kennedy: You put that question to—

Mr. Breithaupt: That's not what they wanted.

Mr. Kennedy: —the committee and the motion as amended, Mr. Williams' amendment, carried. I suggest to you that the issue is complete.

Mr. Rotenberg: Mr. Chairman, could I ask a simple question?

Mr. Chairman: Yes. We are ready now for the original question, the motion.

Mrs. Campbell: As amended.

Mr. Chairman: As amended.

All those in favour? We have just put the motion as amended and asked for all in favour.

Mr. Williams: I'm withdrawing the motion right now.

Mrs. Campbell: You can't withdraw what was never carried.

Mr. Chairman: Order, please.

Mrs. Campbell: Are you standing there saying—

Mr. Chairman: We are back to dealing with the original motion.

Mr. Kennedy: But not as amended.

Mr. Williams: Not as amended.

Mr. Chairman: We are back to dealing with the original motion. Mr. Williams has withdrawn his amendment.

Mr. Warner: A point of order, Mr. Chairman.

Mrs. Campbell: How can you withdraw it after it has been voted on?

Mr. Warner: I believe I have the floor. If you recall, I originally raised the point that the amendment was not in keeping with the spirit of the motion and therefore was not in order. The chairman ruled that it was in order.

Mrs. Campbell: That's right.

[3:00]

Mr. Warner: Therefore, once an amendment has been put and carried by a committee, or by the assembly itself, it stands; and the procedure following from that is that the motion as amended is put to the committee and is voted upon and it is either accepted or rejected. I suggest that Mr. Williams, in the future, before he puts amendments should consider whether or not his amendment is in keeping with the spirit of the original motion, otherwise it should not be put and we would not have gone through this silly wrangle. The amendment having been carried, we must now vote on the motion as amended and I would call the question.

Mr. Williams: As the sponsor of the amendment, I am still on record as withdrawing it.

Mr. Rotenberg: Mr. Chairman, I and Mr. Warner both have moved the previous question, which is a nondebatable motion.

Mr. Chairman: All those in favour? Seven. Opposed? Two.

The motion, as amended, is agreed to.

Mr. Rotenberg: Can we go back to questioning Mr. Lang, Mr. Chairman? I think there are several people who want to ask him some brief questions.

Mr. Chairman: Yes, and we have several people waiting to appear before this committee.

Mr. Rotenberg: Mr. Lang, just a couple of questions arising out of your brief. You made some suggestion that the problem of vacancies is only in Toronto, maybe Ottawa, whereas in other locations, it is not. Would you suggest, arising out of that, that we may have different rules for different parts of the province if we continue rent review?

Mr. Lang: I don't think so. I think it will be too cumbersome to have different rules outside of Metro.

Mr. Rotenberg: Then if I might pursue it, because there is a problem, according to you, in Metro Toronto and not in other locations, which problem do we satisfy; continue rent review because of the Toronto problem or discontinue it because of the outside problem?

Mr. Lang: What I'm saying is, terminate rent review, period.

Mr. Rotenberg: My second question: I don't understand it when you say the assumption of jurisdiction over low-income housing by OHC has aggravated the situation in Toronto. How do you justify that statement?

Mr. Lang: I don't have figures with me, but my feeling is that the authority that is responsible for providing low-income housing

in Toronto in the form of apartments isn't doing too good a job.

**Mr. Rotenberg:** But aren't they doing a better job than if there was no authority at all?

**Mr. Warner:** They aren't doing anything.

**Mr. Rotenberg:** Mr. Chairman, with respect, I think I have the floor and not Mr. Warner. If there was no OHC and OHC had done no building, wouldn't the situation be worse than with OHC?

**Mr. Lang:** My impression was that OHC was building in previous years in Toronto. I could be corrected there. What was your impression, Mrs. Campbell, on that? Was OHC building in Toronto?

**Mrs. Campbell:** OHC was building in Toronto.

**Mr. Lang:** But they haven't done so in recent years.

**Mrs. Campbell:** They haven't for some time except in co-operation with Metro on senior citizen housing.

**Mr. Rotenberg:** Why has OHC being in the field previously aggravated the situation?

**Mr. Lang:** Toronto wanted to do its own thing in apartment supply for low-income housing, and I don't think it is doing a very good job at the present time.

**Mrs. Campbell:** It's better than nothing.

**Mr. Rotenberg:** Just one last question: In light of the case you brought before and other cases, would you feel that if we continue rent review there should be something in the rent review consideration to consider market value, to consider discrepancies in a building, one being too high and one too low, according to the market? Should rent review hearings consider not just what last year's rent was, but consider what the market rent in the area was or is and try to adjust to that rather than just to last year's rent? Do you think that would help solve the problem?

**Mr. Lang:** I definitely agree. When we're carrying out an appraisal on a building before rent control, it would be my practice to take rent samples from comparable buildings in the area and then adjust them to the building we are examining and say, "This is what the rent structure should be in this particular building, for this size of accommodation," adjusted up or down from surrounding buildings.

**Mrs. Campbell:** Have you looked at St. James Town when you say that?

**Mr. Lang:** No, I haven't.

**Mrs. Campbell:** I wish you would. The fee that is charged is out of control altogether.

**Mr. Samis:** I have one basic fundamental question. Are you against rent review in principle or are you arguing that rent review has failed and, therefore, you're against it? If you are arguing the latter, try to specify where it has, in the context of society, not just in the context of your own case.

**Mr. Lang:** I'm against rent review in principle at the present time. What I said in my submission was that we had an inflationary spiral, a vicious one, in 1975 so we had the AIB and wage control, we had spec tax and we had rent review. If you look at the situation now, we find that the inflationary spiral has almost, if not totally, disappeared.

**Mr. Samis:** It's up to nine per cent again.

**Mr. Lang:** You may or may not be wrong there; but over a 12-month period?

**Mr. Samis:** Yes.

**Mr. Lang:** But we find that Hydro and municipalities, all levels of government are now toning down their annual increases on what they're charging.

**Mr. Samis:** Hydro is up again. Hydro has projected increases.

**Mr. Lang:** Oh, yes, but we're not getting the massive increases that we've had.

**Mr. Samis:** No.

**Mr. Makarchuk:** But this year's deficit over last year—

**Mr. Chairman:** Mr. Makarchuk, excuse me.

**Mr. Samis:** Could I get back to the basic point though; is your opposition based on broad philosophical grounds, or are you arguing to us that it hasn't worked?

**Mr. Lang:** I say it's very costly to administer and it creates inequities in every single building, in that some tenants are subsidizing tenants who are paying lower rents.

**Mr. Samis:** Let me ask again.

**Mr. Lang:** So it has failed, yes—

**Mr. Samis:** I get the impression from reading your brief the opposite has occurred.

**Mr. Lang:** —both socially and economically, and it costs a hell of a lot of money to run and administer.

**Mr. Samis:** It costs \$10 million.

**Mr. Warner:** The Tories don't know how to run it.

**Mr. Samis:** Can you just amplify on what you argue—that it has failed socially to the extent that we should scrap it?

**Mr. Lang:** Socially it fails because it will slow down the supply of apartments.

**Mrs. Campbell:** That's not how it is in Toronto.



**Mr. Lang:** —and it creates deferred maintenance in the existing housing stock, which is bad for everybody.

**Mr. Samis:** Surely, the social benefit would at least equal those if you're arguing on the social ground?

**Mr. Lang:** What about the millions of people who own property and want to sell it and buy it and own it and manage it and everything else?

**Mr. Duksza:** Apartment tenants don't own property.

**Mr. Lang:** We're not being compensated for our loss in values. I mean you've got an example of the Niagara Escarpment Commission today.

**Mr. Samis:** That's a separate ball game.

**Mr. Lang:** There's a sufficient number of voters in this province who protested about the Niagara Escarpment.

**Mr. Samis:** That's completely irrelevant to what we're talking about, surely.

**Mr. Lang:** You're taking our freedom to deal with our property away from us—

**Mr. Samis:** I would suggest that's totally irrelevant to this case. I would suggest, secondly, that there was no vote on that whatsoever. Thirdly, I think there were 1,600 people at the meeting who voiced their views on the subject.

**Mr. Lang:** That was one meeting in Orangeville.

**Mr. Samis:** Right, and that was the largest meeting of the entire episode. But I just want to get back to the issue.

**Mr. Lang:** You are eroding private citizens' rights with this kind of legislation.

**Mr. Samis:** We have other people here who feel their rights are being protected by this act.

**Mr. Lang:** Are you saying that tenants didn't have any rights prior to rent review?

**Mr. Warner:** They sure as hell didn't; tenants aren't private citizens, that's what you're saying.

**Mr. Lang:** Oh rubbish.

**Mr. Chairman:** Mr. Samis has the floor.

Interjections.

**Mr. Hall:** On a point of order, Mr. Chairman. We're not going to get anywhere in this committee if individual members attack witnesses as Mr. Warner just did. I ask you to ask him to stop and maintain a little order.

**Mr. Warner:** Yes, but individual witnesses should not attack tenants either.

**Mr. Chairman:** Mr. Samis.

**Mr. Samis:** Can you just correct me? I can't help but avoid the impression, having listened to you and having reread your brief, that your opposition is essentially philosophical. You resent the fact that the government would have any form of intrusion in this aspect of the economy and, therefore, you want to get rid of it as soon as possible. Am I incorrect in that assumption?

**Mr. Lang:** It's philosophical as well as economics.

**Mr. Samis:** But I get the impression your case is essentially philosophical from the rhetoric used in your brief and the rhetoric used in some of your replies to some of the questions.

**Mr. Lang:** Not really. It boils down to dollars as well as interfering with freedom.

**Mr. Samis:** Okay, I'll leave it at that, because obviously, we're millions of miles apart on this.

**Mr. Kennedy:** Just a brief question, Mr. Lang: With your experience as economist-appraiser-consultant, if there's such an animal as a typical apartment investor, what return is he looking for?

**Mr. Lang:** He is looking for a low annual return, I would say. He's probably getting around four, five or six per cent. It's very hard to use a yardstick.

Traditionally, what happens with all types of real estate, not apartments only, is that if an investor buys a building he may not make too much money but it's a long-term process. Over a period of 10 or 20 years he will gradually pay down his mortgage. His rental gross will increase, and maybe at the end of five, 10, 15 or 20 years he's built up an equity in the building. He's then in his 60s and he sells and he takes a capital gain. Then after he's paid his piece off to the federal and the Ontario governments he's made some kind of a profit. It's a very long, patient process.

**Mr. Kennedy:** Are you describing the typical arm's-length investor?

**Mr. Lang:** Yes, I am.

**Mr. Kennedy:** In other words, when one comes in to you and asks for some investment that he'll be interested in, he will be interested if you say he will get, four or five per cent initially. Do you make a sale?

**Mr. Lang:** No, I don't sell real estate, but this is the basis on which they're often sold.

**Mr. Kennedy:** Yes.

**Mr. Lang:** The thing about a residential investment like an apartment building is that you suffer a low vacancy situation as opposed to buying a row of stores, a factory or an



office building where you may suddenly have 10 or 20 per cent vacancy or a whole factory empty. The average small investor couldn't take that sort of mental and financial shock. With an apartment building you're relatively safe, so obviously the yield you get is very little and, sometimes, it's even negative these days. But we look to the long term.

**Mr. Williams:** Could I ask a supplementary? It is my understanding that the average anticipated net yield or profit would be somewhere between 12 and 15 per cent for a real estate investor, failing which it would be more profitable to invest in securities rather than risk real estate investment. People who came before the original rent review committee indicated that a yield of somewhere between 12 and 15 per cent was an expected net profit to realize to warrant the type of risk investment that was involved.

**Mr. Lang:** Would this be somebody who was dealing with a 200- or 300-suite building?

**Mr. Williams:** No, the average-income real estate investor, whether it's a four-plex or a 400-unit apartment building.

**Mr. Lang:** I would doubt very much if they're getting that.

**Mr. Williams:** As I say, your comment as to the percentage seems to be inconsistent with what other people in that field of investment had stated would be the appropriate net yield to make it worth the investment. They talked about the 12 or 15 per cent net yield.

**Mrs. Campbell:** Six or seven per cent is what they're looking for.

**Mr. Lang:** The thing about real estate is the leverage. You can buy a \$700,000 building in Richmond Hill for \$100,000 cash. When you buy a \$700,000 GIC you've got to have \$700,000 cash.

**Mr. Williams:** Okay, thank you.

**Mr. Chairman:** Mr. Lang, thank you very much for your time.

Just before the next witness there are a couple of things I would like to mention. I'm thinking back to this motion—this little exercise we went through. I'm still not sure I understand half of it, but that's all right.

One of the things I think we've got to guard against here is the tendency, the very natural tendency, when we hear of a case—in this instance, it is a landlord who's before an appeal board—it's very intriguing and we don't know the answers and we'd like to see it. Obviously, there was a sentiment here that we'd like to get, anonymously or otherwise, the details of that case.

If we start that precedent and we have, as we're going to have, some very legitimate requests of the same nature from tenants' groups, it seems to me that it's going to be a little difficult to justify in your own mind how you can pursue one here on behalf of a landlord to get some answers to satisfy ourselves and not pursue the legitimate concerns that might be before an appeal board from specific tenants. We would be so inundated with things and we can barely cope now.

There isn't a person in this committee who hasn't expressed concern about the time limit we've got. If we fall into this trap of trying to get specific details on specific cases, however intriguing they might be, from landlords or tenants, you know damn well that we'll not have anything worth looking at by June 15. I just think we have to be very careful on that.

[3:15]

**Mrs. Campbell:** Mr. Chairman, may I suggest we already set the precedent when we had a tenant group before us the other night and we asked them to bring back the details. If we are going to be dealing with the question of passthrough clauses, it's important that we have something upon which to base a conclusion.

In the case of the tenants, they were talking about another type of financing, if you recall, down in the Beaches area. We invited them to come back to supply details. I don't think we're breaking new ground in this case. I think we perhaps broke the ground in the other case.

I don't think this is a case where we should say we don't want to be confused by the facts. I think we need to know the facts to come to conclusions which one hopes will be reasonable for all parties.

**Mr. Chairman:** I wasn't here the other night, so I don't remember that particular case.

**Mrs. Campbell:** We did do it. I think members who are here will remember we did it.

**Mr. Chairman:** Right. But in the case of the landlords, at least in this case we have just witnessed here together, surely through the appeal boards, through Mr. Robbins and through Mr. Batchelor, and without going through specific cases, we can get all kinds of precedents to see how these cost pass-throughs have been treated.

**Mr. Makarchuk:** I don't think we should be too selective in what we see. I don't want the government to select my information for me.

Mr. Warner: I appreciate the item you've raised, Mr. Chairman, but also I acknowledge what Mrs. Campbell has mentioned. I think there's one further avenue which could be fruitful for the committee to explore; that is, I believe there's at least one case—maybe there are more than that; I don't know how many—that has gone through the routine of the appeal and subsequently has gone to the Ombudsman's office.

I think it would be appropriate for the consultant to contact the Ombudsman's office to obtain the results of concluded cases—not ones that are under investigation by the office, but concluded cases—and for the committee be able to have those results. They may or may not pertain to the particular line of thought we've been trying to develop; I don't know. But because of the nature of concerns raised by the gentleman who was just here, and certainly by the tenants who were in on the earlier night, there are obviously some questions about how the system is working and what's going wrong with it. Maybe the cases that have been concluded by the Ombudsman's office might shed some light on this.

Mr. Chairman: That's a good point.

Mr. Warner: If it's agreeable to the committee, perhaps the consultant could do that.

Mr. Chairman: Mr. Feldman said he would do that.

I think we should proceed. Just one last comment: There's a tendency, because of the nature of this topic—and this tendency isn't going to go away—for several of us to speak at the same time. That's fine, because we live here and we're all paid very highly to do that sort of thing and abuse one another.

Mrs. Campbell: So that's what we're paid for!

Mr. Chairman: When the witnesses are here—the temptation is still very real, but I don't think we should be directing side questions to the witnesses from any quarter around this table. They're human and wish to respond too, and we get several dialogues going on at the same time. It will be easier on the witnesses if we just ask questions and the witnesses then can avoid the temptation of responding in kind. But I think we have to set the tone.

Mr. Walker: In fairness to the witnesses, Mr. Chairman, I think the last witness looked after Mr. Warner very well.

Mr. Warner: I thought I protected myself okay. I think I can take care of myself—

Mr. Rotenberg: You have so little to protect.

Mr. Samis: But he does it so well.

Mr. Duksza: Just every tenant in Metro; that's all he's protecting.

Mrs. Campbell: Not every one. Some of the rest of us are protecting a few.

Mr. Duksza: And you too, Margaret, but not Mr. Rotenberg.

Mr. Rotenberg: I have protected a lot more tenants in my time than you have.

Some hon. members: Order.

Mr. Chairman: If you would be kind enough, sir, would you identify yourself for the record?

Mr. Duffield: Mr. Chairman, ladies and gentlemen, I'm Ernest Duffield and with my wife, Rotraud, I live at apartment three, 251 Jane Street, which is one of a six-unit apartment building.

I wish to place on record our concern for the need for continued and further tenant protection. We took over the tenancy of the apartment, plus a garage, of which there are six at the rear of the building, on November 1, 1972. The landlord is a Mr. Pushchak of 65 Glendonwynne Road, Toronto, and an oral agreement was made with him for the payment of an inclusive rent, monthly, for the apartment plus garage. This agreement proved satisfactory, periodic increases in the rent having been made over the years amicably between the two parties.

At the beginning of October 1977, the refrigerator, owned by the landlord, became unserviceable and corrective action was asked of him, but none materialized. We live mainly on fresh fruit and vegetables and these were constantly spoiled and cost us plenty. We were offered an even older fridge as a replacement, but it was refused by us because it had much less capacity as well as no door storage space and no crisper compartment.

On October 25, 1977, I got a verbal agreement from the landlord to let Kelvinator repair it and they made the necessary arrangement. On October 26, 1977, the landlord said he would not pay the repair bill; however, I took it upon myself to pay for the repairs, which amounted to \$74.

On October 27, 1977, the landlord again came to the door and said he would not pay. On November 1, 1977, I received a form six notice to quit by January 1, 1978. I visited the Landlord and Tenants Advisory Bureau and later had a letter from them advising me to take legal action against the landlord. I did not vacate on January 1, 1978.

On January 17, 1978, I was served with a notice of motion and affidavit to appear at



York county court on February 6, 1978, which case was postponed to February 13, 1978. On February 13, the case was heard and the findings were "case dismissed."

On February 23, I received a letter of harassment regarding "garage rent." On February 28, another letter on the same subject. On April 5, 1978, I was locked out of the garage for 17 days. On April 6, 1978, I took out a summons against the landlord for interfering with the locking device on the garage.

An April 25 I was given yet another notice of eviction, this one effective July 1, 1978—I am still living with that sword of Damocles above me right now. On May 8, the landlord at a hearing of provincial court, criminal division, Old City Hall, was fined \$25 for interfering with the locking device on the garage.

Regarding the current notice of eviction received on April 25, the reason is as quoted under part IV, paragraph 103(b). I think all the members are aware of that; I don't need to dig it out for you.

**Mr. Chairman:** I am intimate with it. I just learned "de novo."

**Mr. Duffield:** From the foregoing it is obvious that "usage by a family member" is, to say the least, questionable. Renting of accommodation is a business. Here is an example of mixing sentiment with business. The two will never mix. It is just an "out" for the landlord and should be expunged in its entirety from the act. It would be of interest to learn the ratio of bona fide to spurious reasons for its use on past occasions.

As I say, ladies and gentlemen, there are no reserved seats in lifeboats. That is all. Thank you very much for your attention.

**Mr. Chairman:** Are there any questions for Mr. Duffield?

**Mr. Duksza:** No, it's a very good statement.

**Mr. Rotenberg:** Did you get on a lease, or are you just on a month-to-month tenancy?

**Mr. Duffield:** Monthly tenancy, sir.

**Mr. Rotenberg:** Aside from your problem, has your rent been going up?

**Mr. Duffield:** Periodically. It was never questioned by us, anyway.

**Mr. Rotenberg:** Satisfactory rent increases?

**Mr. Duffield:** Yes.

**Mrs. Campbell:** "Amicably settled" is what he said.

**Mr. Chairman:** Mak, make a motion. We've got a little time to kill.

**Mr. Makarchuk:** It's not the motions that are so difficult; it's the damned amendments that you allow that create the problems.

**Mrs. Carpenter:** I am Mrs. B. Carpenter, vice-president of the Multiple Dwelling Association of the Sudbury District. This article is based on evidence which has been researched in the Sudbury District and on personal experiences. For the purpose of this presentation, we will begin with 1969 through the present and what we, as an association, would like for the future of the Sudbury area. We ask that you take this as being as sincere in intent as we, the Multiple Dwelling Association of the Sudbury District, do.

We are desperate people who are appealing to you today. The economy of Sudbury evolves solely around the mining industry of two companies, Inco and Falconbridge Nickel Mines. In the year 1969, Inco and Falconbridge were negotiating another contract to last for a three-year period. The contract with Inco expired on July 10, 1969. Settlement could not be reached. The employees of Inco went on strike from July 10, 1969, to November 15, 1969.

Similarly, Falconbridge was also unsuccessful at contract negotiations, and the union went on strike on August 21, 1969, until November 23, 1969. This left the Sudbury basin in very bad shape. Men who were able to work elsewhere were leaving. We eventually recuperated from that year when the mines began rehiring new men to replace the ones who had left the area.

In 1972 came another contract year for the mines. For Inco, there were no strikes or shutdowns for the mine. However, the company laid off just under 1,000 men. Falconbridge had no strikes, shutdowns or layoffs of men. In 1974, Falconbridge shut down its mines for an extra three weeks during July and August.

Let us take, for example, this graph. I don't know if you people have copies of it. I just have this one copy which you can pass around.

**Mrs. Campbell:** Could we get this xeroxed for the members? I don't think just one person having a copy would be useful.

**Mrs. Carpenter:** This graph is exemplary of the Sudbury factor and is based on one building of 238 units. The repercussions of the layoffs and the shutdowns by the mining companies precipitated a drop which continues on a downward trend for almost a year, resulting in a 23 per cent vacancy factor in 1973. It takes time for the economy to recover, once the mining companies commence rehiring and bringing new men into the area to work. Actually, it took a whole three years to bring our rents back up to market value. Some never got there when we were hit by another contract year.



As you can see, just before the contract year ending 1974, the vacancy rate had recovered to one per cent. In July 1975, Inco successfully signed its contract with no strikes, shutdowns or layoffs. Falconbridge, however, was in a different situation. There was a strike, and the men were off from August 21 until November 3, 1975. Young men who could not wait around idly left the area.

When the men finally did go back to work on November 7, Falconbridge laid off a further 450 men. Then came the shocking news that rent controls would freeze all rents retroactive to September 1975, when our rents were very low. We had no choice but to go before the rent review boards to have our rents brought up to market value.

The officers of the initial hearings had some idea of the Sudbury factor, and we received reasonable consideration. Then came the appeal hearings. This was a disaster. The trend of these decisions was always lower than the first Sudbury hearings. This led to mistrust and hard feelings by many tenants towards their landlords, who were accused of trying to gouge the tenants. This was totally untrue.

[3:30]

The appeal board would not accept many expenses and would spread many over a three-year period. For example, if an apartment were painted, they would take the capital cost and spread it over a five-year span. Yet if we were to go before the courts, the judges expected the premises to be painted after every tenant, regardless of the duration of the tenancy. In many cases the landlord ended up paying the cost.

Under rent controls we were not allowed adequate return on our investments. We were only to break even. Suppose you had a property and your mortgage was paid; you wanted to apply for a six per cent increase due to the cost of maintenance and utilities that year and to continue to make a return on that investment. No way would the board accept this concept. We were not to make a profit.

Personally speaking, this is our livelihood and only means of survival. We have to have a margin of profit to keep going. This has been disallowed by the rent appeal board. There was no consideration given to a vacancy factor in their decisions as well as no consideration given to return on our investment.

Because of the rent controls, we were not able to gather funds in advance to carry us through the 1978 contract year. What really shocked us was the large layoffs announced by Inco and Falconbridge before the beginning of the contract year. This resulted

in a large number of young people leaving the area immediately, causing the current vacancy factor of 16.7 per cent. This is complete disaster. Landlords have no savings and are near bankruptcy.

In late August 1977, Falconbridge announced a shutdown for mid-1978 and the elimination of 434 jobs. Inco, too, had also been decreasing its work force through a policy of not replacing employees lost through normal attrition. On October 12, 1977, Inco announced a layoff of approximately 2,200 men in the Sudbury area. On December 8, 1977, Falconbridge said they were eliminating another 750 workers. From late August 1977 to December 1977, Sudbury has lost a total of 3,984 jobs.

Now we have no funds for our taxes and everyday maintenance and utilities. Urgently needed is some kind of subsidy on these vacant units commencing retroactive as of January 1978, such as an ARP program. We would like to have the Assessment Act, chapter 23, section 131 1(a) brought back into effect for the short-term relief of this critical period.

The Rent Review Act has kept the landlord very separate in his relations with his tenants. A certain mistrust exists. This whole concept originated solely from the act. We are now classed as the underdogs of society. Very true.

Controls should be specifically designated to accommodate the Sudbury area. We feel we should become exempt because of the Sudbury factor of the one-industry town and the boom and bust nature of this economy.

We feel if the controls are to exist, at least give us the right to bring our rents up to market value by comparison with the weekly basic wage, that of the mining companies, and comparable accommodations in other Canadian cities. Then provide a subsidy for people who cannot afford them. Let people live where they wish, accepting them throughout the community without them being pointed out and bearing a low-rental stigma. Let them live a normal life with the rest of the community.

I myself had applied to have my units accepted for that subsidy and Ontario Housing told me, "No demand right now." Yet we know of many people who would appreciate our units, rather than leave them empty. There are no Ontario Housing units in the Onaping Falls area. These people are shipped to downtown Sudbury. In many cases these people wish to stay in the Onaping Falls area where they were raised.

Because of the rent review legislation, we now feel that there has been more friction

built up and disrespect for landlords. Tenants are not paying their rents. They are leaving without proper notice and damaging our premises. We go before the courts and the judges take the Landlord and Tenant Act very lightly. We end up paying the bills. Consequently, these costs are absorbed by the premises and result in higher costs. Eventually the good tenant pays for the bad ones. I feel strongly that the responsibility should be placed on the shoulders of the person responsible. This would eliminate a great deal of the costs in general.

Increases should not be put before the boards unless a tenant makes a formal complaint and only if the increase is over six per cent.

Because of past dealings with controls, we now feel we should qualify for all government assisted programs: for example, subsidization programs, tax relief, incentive programs, et cetera, to meet our present needs.

Options put forward in the green paper in the red-covered book have been thoroughly discussed and considered by our committee. With respect to the idea of a rentals man similar to the province of British Columbia, we do not wish to have one rentals man imposed on us to deal with the whole province's problems. British Columbia has had many problems in that respect. In some cases which were to be heard, it has taken three to four months, along with a lot of government red tape. We have enough problems as it is without the backlog of an overworked rentals man.

If a mediator and tribunal were to take the place of the judges in the small claims court, they should be composed of members made up of tenants and landlords alike. They should not be biased in their decisions and should be able to handle the Landlord and Tenant Act fairly. We should, as landlords and tenants, have the right to appeal a tribunal's decision through the regional courts in the area. This is to eliminate the exorbitant costs. Cases should be dealt with quickly and efficiently. There should not be any backlog buildups. This would discourage the public.

We are people who have invested our life savings in the rental business. We were hoping for a fair return in the free enterprise system. Without warning, the controls were imposed upon us. They were managed irresponsibly with no knowledge of our position and in many cases gave no profit, thus we were made to take great losses. Please consider this very carefully. Take into effect the Sudbury factor. Please exempt us from the controls and let us live in a free enterprise world, running our business as we see fit. Let the law

of supply and demand govern. Thank you for listening.

**Mr. Williams:** Mrs. Carpenter, you have certainly given us a very thorough brief and identification of the particular Sudbury problem. There's no doubt that the Sudbury residential rental situation is somewhat different from Metro Toronto or some other areas. I wonder whether, for the benefit of the committee, perhaps you could identify even more clearly the residential rental income characteristics of Sudbury, such as the number of three-, four- or six-plex type of units that are in existence to meet living accommodation in the Sudbury area as contrasted to the large 200- or 300-unit apartment buildings such as we have in the Toronto area.

In other words, could you tell us the number of independent landlord situations that exist as contrasted to the large developer-type of owner-tenant situations? Could you indicate to the committee, for instance, the number of members in your association and percentage-wise the number that consist of the former type as contrasted to the latter type? Perhaps if you could just give us a better and clearer picture of that situation, it would help us.

**Mrs. Carpenter:** We have just formed the association as of March 1977. Our association isn't very large. We represent about 40 members and that represents about 2,600 apartment units approximately.

**Mr. Williams:** How many are there approximately and totally in Sudbury?

**Mrs. Carpenter:** About 20,000. We figure we represent about 10 per cent.

**Mr. Williams:** What is the maximum size of the units of the people in your association? Are they the four-plex or six-plex type of operation?

**Mrs. Carpenter:** They are the small people. That's right. I myself have quite a few duplexes and triplexes and a six-plex. Then I have one big unit. I actually started right from the beginning with a duplex and a triplex and worked my way up, but it took us 15 years to get there.

**Mr. Williams:** Of the other 17,000 to 18,000 units, are they along the lines of the 20- or 30-unit type of apartment buildings, three or four rooms or what have you?

**Mrs. Carpenter:** No, In our association, we have a variety. We have a large landowner, and we have very small landowners. It could vary from a duplex right up to a 200-unit.

**Mr. Williams:** In hearing your presentation, I gather that options that retain any form of control would not be acceptable.



You are speaking today, of course, on behalf of the 40 members of your association. You would like a return to a situation completely free of government control, as existed before the program?

**Mrs. Carpenter:** Due to the fact that we are a one-industry town, we are controlled on our own. Due to the mining companies, we are controlled ourselves, without the need of controls from government—because of the boom and bust.

**Mr. Williams:** Are you suggesting that if you are reasonably well assured of a boom period, without the economic depressions that you have identified, maybe you could live with rent control? But in your particular situation where you have the peaks and the valleys it is something you would rather be without entirely, because it is doing more harm than good?

**Mrs. Carpenter:** That's right. Because what happens is that we save our money up for the bust time. We save our earnings and we go through the depressed period. Then we bring ourselves back up. By the time that we bring ourselves back up, it is another contract year and we are back down into the slump area again.

**Mr. Williams:** You are suggesting you would have to be given some latitude with regard to a catch-up factor to live through the good times and cover you over the bad times?

**Mrs. Carpenter:** That's right.

**Mr. Williams:** Could that not, however, provide some inequity for tenants?

**Mrs. Carpenter:** This is what I was stating in regard to the subsidy. Right now, basically, a two-bedroom unit in Sudbury is \$220 to \$245. The basic take-home pay of a miner is \$250. That is not gross. That is net pay for one week. We are not gouging the people. We are not asking for more than what is expected. We don't even get up to the market value and we are back down into the slump area again.

**Mr. Williams:** This is my last question, and I want to be clear on this. If it wasn't for the singular difficult problem that you have regarding the one-industry-town situation, rent control might be more acceptable. It wouldn't work the hardships on you people in particular that you have identified. Is that correct?

**Mrs. Carpenter:** That's right.

**Mr. Williams:** But under your circumstances, rent controls should not exist in the Sudbury area. Is that what you are saying to us?

**Mrs. Carpenter:** That's right.

**Mr. Samis:** I just have a couple of questions. Could I ask you first of all, what is the unemployment rate in Sudbury now?

**Mrs. Carpenter:** That is one statistic I don't have, but I will have it when the committee comes up to Sudbury. If you wish it, I will have it.

**Mr. Samis:** Let me ask you if my memory is erroneous or not. I seem to recall reading a figure of 10.5 or 11 per cent. Does that sound correct, or does it sound off?

**Mrs. Carpenter:** I couldn't help you.

**Mr. Samis:** I come from an area that is notorious for high unemployment, eastern Ontario. We have had multiple layoffs in the last 10 years. We have had the entire cotton industry lay off 800 at one time. We have had closures as well. We have never had requests of this particular nature.

I would point out that there are other communities in Ontario who have unemployment of 15 or 20 per cent. I don't know if their situation is totally different from yours. I will accept the fact that there is more a boom or bust nature to your economy, but then again it is totally free-enterprise economy. Therefore, you have to live with that consequence in the Sudbury area. If you take towns like Barrie, Welland, Pembroke, possibly even Windsor—I'm going from memory—their unemployment rates are somewhere between 12 and 20 per cent.

**Mrs. Carpenter:** But do they have other industries in the city that may be able to compensate for the slow times at companies like Inco and Falconbridge and perhaps accept them into other areas? We are a one-industry town, a mining town. People just leave the area. They go out, and we have nothing left.

[3:45]

**Mr. Samis:** My own community, for example, has had a population decline from 1971 to 1976. Peterborough's unemployment rate is very high. I would suspect that there is a population exit at the present time in that community.

What I would like to get on to is on page two of your brief—item seven, I guess. Would you explain to me—it was so widely talked about in the year of 1975, with the provincial election and everything. I am just curious why you would classify it as the "shocking news" about rent review.

**Mrs. Carpenter:** To us in Sudbury, our rents were very low and everything was frozen. We went before the boards but we didn't get fair decisions. This really disturbed



us because of the decisions that were brought down to us.

**Mr. Samis:** You weren't shocked by the advent of rent control—that's what I am trying to get at. No.

On page three you seem to imply that the way the board is operated in your area, they don't accept the concept of a return on investment. I look at the figures here in the report given to us by Mr. Robbins from the rent review program under the name of our beloved friend, Larry Grossman. I look at Sudbury and I look at the general rate of increase and I see a figure of 13.95 per cent. That would imply to me that the rent review in Sudbury does acknowledge the right of the landlord to have a profit return on investment. It is considerably higher than my own community, for example. It's above the provincial average.

**Mrs. Carpenter:** It is because our rents were very low at the time and they had to give us increases. But they weren't substantial enough to cover us through.

**Mr. Samis:** Can you tell us, in your own case, how the rents have increased since 1975 in your own apartments?

**Mrs. Carpenter:** Okay, I have my own case. It was brought before the rent review board. It is a very special case.

Due to it being previously owned by a mining company, Inco, they were selling out all their premises and their properties. I purchased a 39-unit and a 12-unit—that comes to 51 units in total. I purchased the units at \$7,843 a unit. I figured it was a very good buy. There exist two-bedroom and one-bedroom units. The two-bedroom units are 1,000 square feet. The one-bedroom units are 887 square feet. It was a very good buy to us.

When I went before the rent review boards, I received the basic rent that I had asked for. I had asked for \$207 for a two-bedroom unit and \$175 for a one-bedroom unit. I figured it was very reasonable.

**Mr. Samis:** That was in 1975 or 1976?

**Mrs. Carpenter:** In 1976. The basic wage for the miners was \$250 and up—net take-home pay. I was asking \$207 and \$175 for these units. I received it. When I got before the appeal boards in Toronto, they lowered me down from \$207 to \$182 a month. I also received \$175 down to \$162 a month.

**Mr. Samis:** What reason were you given?

**Mrs. Carpenter:** That we were to take a loss.

**Mr. Rotenberg:** What was your rent the previous year?

**Mrs. Carpenter:** The previous year it was \$127. It was given for a two-bedroom unit. It was given to their workers because they were living in the premises of Inco and working for Inco.

**Mr. Samis:** So in effect, the rent went up from \$127 to—

**Mrs. Carpenter:** To \$207 for the two-bedroom. It was \$137 to \$207 for a two-bedroom unit and \$127 up to \$175—I had asked for that, but it was brought back down.

**Mr. Samis:** It was brought down to—?

**Mrs. Carpenter:** To \$182 for a two-bedroom unit.

**Mr. Samis:** No the one-bedroom.

**Mrs. Carpenter:** One bedroom was \$162.

**Mr. Samis:** So it went from \$127 to \$162.

**Mr. Rotenberg:** The \$127 had no relation to any market value or—

**Mrs. Carpenter:** Nothing at all, because they were workers from the mines themselves.

**An hon. member:** They were subsidized.

**Mrs. Carpenter:** Yes, that's right, they were subsidized by Inco.

**Mr. Samis:** I assume the appeal officer did regard the rent as having some basis in economic value even if there was a subsidy to the workers, if he lowered your rental increase to that extent?

**Mrs. Carpenter:** To me, he didn't accept anything.

**Mr. Samis:** He accepted a \$30 increase.

**Mrs. Carpenter:** He did.

**Mr. Samis:** Not what you wanted but obviously there was an increase.

**Mrs. Campbell:** In looking at your brief, it is a fact that the total housing picture in Sudbury fluctuates this way. The home ownership situation is exactly the same as this?

**Mrs. Carpenter:** That's right.

**Mrs. Campbell:** Do you have a 16 per cent vacancy rate at this time?

**Mrs. Carpenter:** That is regionalized; that is over the whole Sudbury region. I'll specify it to you that Levack has a 49 per cent vacancy factor right now—35 miles out of Sudbury. Azilda and Chelmsford have a 34 per cent vacancy factor. They are only in a 15-mile radius from Sudbury. Garson and Falconbridge are around 10 to 15 miles radius of Sudbury. They have a 16.9 vacancy factor. Sudbury city has 15 per cent. If you total it you come up with a 17.6 vacancy rate through the Sudbury region.

**Mrs. Campbell:** Has there been—taking fluctuations that your are talking about—a

general deterioration? In other words when Inco and Falconbridge go back into production is there still a net loss in the numbers of people employed there that affects your particular housing market? Do you understand the question?

**Mrs. Carpenter:** No, I don't.

**Mrs. Campbell:** You have talked about the boom and bust, and the hills and valleys. When you come back to the recouping period, which would be more to the peak, are the peaks lower each time or do you really come back up to full strength?

**Mrs. Carpenter:** We don't come back to full strength.

**Mr. Charlton:** On page three of the brief-section 17—you made reference to the Assessment Act. Could you inform us on that?

**Mrs. Carpenter:** In 1959-60, there was legislation brought in that if there was a vacancy factor over three months, there would be a 10 per cent discount on property taxes; over four months it would be an added five per cent towards property taxes. This was repealed in 1965. We are asking to have it brought back during these critical periods so that we may have some support in helping us pay our property taxes. Right now we haven't got a cent to pay our property taxes, let alone our utilities in Sudbury.

**Mr. Charlton:** Do you know what the rationale was for taking it out of the act in the first place?

**Mrs. Carpenter:** No, I don't. I had a hard time even getting hold of the act and studying it.

**Mr. Charlton:** I don't know this for a fact because I wasn't in the assessment field at the time and I wasn't even aware of it—it was a little before my time—but I would think it was probably taken out of the Assessment Act as a result of amendments to the Municipal Act. I don't think the amendments to the Municipal Act have been working totally satisfactorily, but there are provisions in the Municipal Act for you to apply to the municipality for tax relief. I would assume that is where the burden has shifted to.

**Mrs. Carpenter:** I will tell you of my experience. I have purchased the same building, and due to it previously being owned by Inco my property taxes when I took over the building were close to \$24,000 for one year. When I reassessed and appealed my assessment they brought it down to approximately \$10,000. I went before the town council asking if I could have a rebate on those taxes which I paid and they would not allow it to me.

**Mrs. Campbell:** As I recall it, they could not.

**Mrs. Carpenter:** No, they can't. So there is no relief for us. There is nothing.

**Mr. Charlton:** I was just referring to what I thought the intention was when it was taken out of the act.

**Mr. Kennedy:** I have a couple of questions, Mr. Chairman. I am a bit concerned here again about the CMHC vacancy survey figures.

**Mrs. Campbell:** Oh forget them.

**Mr. Kennedy:** No, we are not going to forget them. The committee has to come to some understanding with them. We have had two major sittings today and these statistics are away off. I would like to know what the vacancy rate is in the major cities around this province.

**Mrs. Carpenter:** It is always basically lower than what the private investor has.

**Mr. Kennedy:** This report, if you have looked at it—

**Mrs. Carpenter:** Yes, I have.

**Mr. Kennedy:** CMHC figures show 1.2 per cent in Sudbury as of October 1977. You show something in the order of eight or nine per cent if I read your chart correctly, and currently 16.7 per cent.

**Mrs. Carpenter:** That is right. You see the layoffs came. The announcement was given as I was saying here, on October 12—Inco announced a layoff of approximately 2,200 men. They said they wouldn't be laid off until February. Immediately young men with young families just leave the area because they go looking for jobs someplace else before the major layoff. As of December I had a 23 per cent vacancy factor in Levack. By February I had 50 per cent vacancy factor—February 1.

**Mr. Kennedy:** We have to qualify this in that they do say it is six units and over. I understand from your remarks you had some larger units.

**Mrs. Carpenter:** At the time when they base it I only had two large buildings. The rest are all duplexes and triplexes.

**Mr. Kennedy:** Do these statistics you mention refer to the general situation? Your organization does represent 10 per cent of the units in Sudbury?

**Mrs. Carpenter:** That's right.

**Mr. Kennedy:** Do you have any comment on the CMHC figure? It states that in April 1977 and October 1977, six units and over the vacancy rate was 1.2 per cent.

**Mrs. Carpenter:** It was higher than that.



**Mr. Kennedy:** Do you talk to CMHC?

**Mrs. Carpenter:** We do talk to them. We have set up meetings over the Ontario Housing projects. We have asked to have subsidization for our units. We have asked them to please put it into the private investors. We have had numerous talks. We just don't know where to turn to now.

**Mr. Kennedy:** Just one final comment then. On larger buildings, over six units, would you say your figures are comparable?

**Mrs. Carpenter:** I have a written statement directly from one member of our association. She has a brand new building. It is lying empty right now. Lorne Investments manages 693 apartments in the Sudbury area at the present time and there is a 20 per cent vacancy factor in her units. Just the 693 units right now.

**Mr. Kennedy:** How are they made up to 693? Do you know the largest building?

**Mrs. Carpenter:** I would say about 250 units—200 units.

**Mr. Kennedy:** So they are not the duplexes and triplexes?

**Mrs. Carpenter:** No, this is a large building.

**Mr. Kennedy:** Running 20 per cent.

**Mr. G. E. Smith:** The suggestion has been made to the committee, and I believe it is mentioned in the green paper or red book, that there is need for a tribunal which would, I assume, deal with disputes between landlords and tenants under the Landlord and Tenant Act. I know you have specified that you are not in favour of the continuation in your area of rent review or rent controls, but do you feel that a tribunal would be helpful in resolving any differences?

**Mrs. Carpenter:** With the idea of the controls coming on it kind of separated the landlord and tenant. So now they have built up this kind of—what would you say?—disrespect for us.

**Mr. G. E. Smith:** Confrontation?

**Mrs. Carpenter:** Right. Now we seem to be separated from our tenants whereas before we seemed to manage quite well together.

**Mr. G. E. Smith:** So you really feel that wouldn't be necessary, but you wouldn't necessarily oppose it?

[4:00]

**Mrs. Carpenter:** No.

**Mr. Rotenberg:** Going to page four, your point 22, you say: "Tenants are not paying their rents, leaving without proper notice and damaging the premises." Are these tenants mostly on lease or are they mostly on month-to-month?

**Mrs. Carpenter:** Month-to-month.

**Mr. Rotenberg:** So you don't have the last month's rent as deposit then?

**Mrs. Carpenter:** In some cases we do, yes.

**Mr. Rotenberg:** But if a tenant leaves without notice, you have the last month's rent to handle that, do you not?

**Mrs. Carpenter:** Yes, we do.

**Mr. Rotenberg:** Do you find that there are some tenants who don't pay the rent and then leave?

**Mrs. Carpenter:** That's right.

**Mr. Rotenberg:** Do you take them to court?

**Mrs. Carpenter:** We have taken many cases to court, but as I say, the judges take it very lightly.

**Mr. Rotenberg:** Let me ask you this: If a tenant doesn't pay his rent, do you take him to court to recover the rent or do you take him to court to evict him, or both?

**Mrs. Carpenter:** I take him to court to get my rent.

**Mr. Rotenberg:** And the judgements are not in your favour when the rent hasn't been paid?

**Mrs. Carpenter:** I had one case that I had to appeal, yes.

**Mr. Rotenberg:** What reason would a judge give to absolve a tenant from paying rent?

**Mrs. Carpenter:** I think it was the judge himself.

**Mr. Makarchuk:** He was the tenant?

**Mrs. Carpenter:** It's true.

**Mr. Rotenberg:** What, the judge was the tenant?

**Mrs. Carpenter:** No.

**Mr. Rotenberg:** The judge must have given some reason for saying the tenant did not have to pay his rent.

**Mrs. Carpenter:** "Shall we divide it half and half—the tenant pay half and the landlord pay half?" That's the attitude he took.

**Mr. Rotenberg:** Did he give any reason?

**Mrs. Carpenter:** No.

**Mr. Rotenberg:** Are you finding as a general situation that when a tenant does not pay his rent and you go to court that you're not awarded the rent?

**Mrs. Carpenter:** Yes.

**Mr. Rotenberg:** Are these cases usually because the tenant claims you didn't fix up or you didn't do something?

**Mrs. Carpenter:** No.

**Mr. Rotenberg:** You mean the tenants just say they can't afford it and the judge says,



"you don't have to pay." Is that what's happening?

**Mrs. Carpenter:** That's what's happening in some cases, yes.

**Mr. Duksza:** Are we going to subpoena some more documents?

**Mr. Rotenberg:** If you have tenants damaging your premises, have you ever taken a tenant to court to pay for alleged tenant damages?

**Mrs. Carpenter:** Yes, I have.

**Mr. Rotenberg:** How did you make out in court with those cases?

**Mrs. Carpenter:** On a basis, the same. "We'll cover some of the costs and—" they kind of buy it.

**Mr. Rotenberg:** Are you saying, in effect, that you feel that under the present Landlord and Tenant Act the courts are not being fair to landlords, or to you?

**Mrs. Carpenter:** Not all. We have unusual cases.

**Mr. Duksza:** You tell us that in some buildings you started with a 23 per cent vacancy rate and that some have got as much as 50 per cent. I wasn't quite clear on that point.

**Mrs. Carpenter:** Suppose a 15- to 20-mile radius out of the Sudbury area, like in the Chelmsford and Azilda areas, we have a 34 per cent vacancy factor. Levack, which is the area I am in, Onaping Falls area, that's about 30 miles radius from the Sudbury area, and which is just a mining town—these are mining towns in the vicinity of the Sudbury area—I have a 49 per cent vacancy factor. I have more than 49 per cent, but the average is 49 per cent.

**Mr. Duksza:** But that, of course, is the result of a generally depressed economic situation caused by other factors in Sudbury?

**Mrs. Carpenter:** It happens practically every three years.

**Mr. Duksza:** It does say something about the economy of Sudbury, more than—and of course, it affects large landlords just as much as it affects small landlords like you.

**Mrs. Carpenter:** All, right.

**Mr. Duksza:** I noticed the completing paragraph in your brief is slightly different from what you were saying before. You are suggesting more governmental intervention, in effect, to solve the problems both of unemployment and of the landlords who have to provide the accommodation. Am I correct in saying that? On page three, I think, when you say that one of those things should

be lifted, are you suggesting that the government must intervene more actively now?

**Mrs. Carpenter:** No.

**Mr. Duksza:** No intervention at all, you are saying, both in terms of—

**Mrs. Carpenter:** I feel that the way we ran our business before we didn't gouge the tenant; we were a one-industry town and we had our ups and downs and we figured we were managing quite well. Yet when controls came on we were frozen, we weren't able to gather enough money to carry us through our hard times and it just went into disaster.

**Mr. Duksza:** But who are you gathering this money from? If you have a vacancy rate of 23 per cent to 50 per cent, are you gathering this money from the remaining tenants by increasing their rents? Is that what you're telling me?

**Mrs. Carpenter:** No.

**Mr. Duksza:** Then tell me how.

**Mrs. Carpenter:** Since 1975 when the controls came on it seems that everybody became aware of costs. All of a sudden Hydro escalated, then gas or oil escalated. Now we've got escalating costs over our heads and we haven't got our—

**Mr. Duksza:** We are not involved with escalating Hydro costs, general inflation, the unemployment in Sudbury. I know we should deal with it but in this committee we cannot deal with it. We are only dealing with it in terms of rent review legislation or what tenants should pay. If there is an escalation in Hydro prices which affects your costs, Mrs. Carpenter, and you pass some of them through to the tenants, what are you saying to me? That the six per cent increase simply must be lifted and there should be much higher increases for the tenants remaining in your buildings?

**Mrs. Carpenter:** To bring us up to market value. We have never reached market value. It just goes up and down. By the time we get near market value, we're back down into another slump.

**Mr. Duksza:** Are you prepared to suggest a figure? How much should rents be increased every year to the tenants who live in your buildings?

**Mrs. Carpenter:** We can't justify that because people leave the area and then we have to lower our rents. We're taking a loss. We're not making a very good investment on our premises in Sudbury.

**Mr. Duksza:** That's why I'm talking about governmental intervention. Should it be on behalf of the landlords or an attempt to

change the present depressed situation in Sudbury? If the government had moved and actually prevented Inco from firing all the individuals, maybe the situation there would have been different. But our government did not do anything about it, so we have the people who were fired, and consequently the depressed economic situation in Sudbury.

**Mrs. Carpenter:** What I am saying is to have some kind of an ARP program for people who are already in the business, not just for the new builders.

**Mr. Duksza:** You mean a subsidy for the landlords, in that sense?

**Mrs. Carpenter:** Yes.

**Mr. Duksza:** If you have that— and that's what I mean by governmental intervention—

**Mrs. Carpenter:** Okay, I understand.

**Mr. Duksza:** —it doesn't quite fit in with running business as one sees fit, since you are really asking for governmental intervention to help the present small landowners. You have no basic objection to the principle, I gather, of some kind of rent legislation as long as special cases are taken into account in depressed economic areas like Sudbury and for small businesses like you. Is that what you're saying?

**Mrs. Carpenter:** Yes.

**Mr. Duksza:** In one part you said that six per cent seems reasonable. What you object to is people going constantly to rent review legislation—am I correct?

**Mrs. Carpenter:** Yes. Suppose it was six per cent. In my case alone, before our final decision I had to go back to June 1976 to try to collect those rents. I have \$10,000 behind and I couldn't collect from tenants who had moved out of the town. Where am I am going to get that money now? It was too long a process. We can't stand this hardship.

**Mr. Duksza:** To return to the point, the whole economy of Sudbury, due to Inco's behaviour and the lack of response on the part of government, is now depressed. You're pointing out the general economic problems in Sudbury which don't fully relate to the fact that tenants also cannot afford to pay. If tenants cannot afford to pay, they cannot be expected to pay 20 per cent extra per year to cover the costs of the landlord who are losing during this particular phase, because of the bust and boom type of economy. Over a period of 15 years—since you also stated that you started with a duplex and you seem to have more than a duplex right now—

clearly, in spite of a bust and boom economy you have survived.

**Mrs. Carpenter:** We wouldn't survive if the economy continued—

**Mr. Duksza:** You have survived so far rather handsomely, one way or another. You have worked very hard—I would never deny the Protestant ethic here, of course.

**Mrs. Carpenter:** We work 16 and 18 hours a day.

**Mr. Duksza:** But you work.

**Mrs. Campbell:** I work hard and I'm going to start screaming to—

**Mrs. Carpenter:** We work very, very hard.

**Mr. Duksza:** But your returns were quite successful. Most people—a lot of people work that hard.

**Mrs. Carpenter:** There are a lot of messes to clean up.

**Mr. Duksza:** You have still made a fair amount of money and you're saying that the only way now, because you are in this spot—

**Mrs. Carpenter:** We invested back into premises to accommodate tenants.

**Mr. Duksza:** That's very good. How much are you worth, Mrs. Carpenter? Are you prepared to tell us?

**Mrs. Carpenter:** No, I'm not.

**Mrs. Campbell:** Come on.

**Mr. Hall:** Are you prepared to tell us what you're worth?

**Mr. Duksza:** Yes, I am.

**Mr. Hall:** Tell us.

**An hon. member:** Mr. Chairman, can't we move along?

**Mrs. Carpenter:** What we figure is that we put all our life savings back into more apartments to help the economy and to help the people. I'm not trying to gouge or anything else.

**Mr. Duksza:** No, I'm not saying that, Mrs. Carpenter. What I'm saying is that if you're going to talk of abolishing rent review legislation, the question of profitability, of making money on the business is a fair game, and unless people who say we should abolish rent review legislation, allow a free market thing, and also say what they're talking about, how much money they want to make, what is the return on their capital, and things like that I shall ask those questions repeatedly because they're perfectly relevant to it.

I'm not going to limit it to saying there is a vacancy rate and that there is suffering. I want to know exactly how much they are suffering and are they really suffering. That's what I'm asking. Mrs. Carpenter doesn't have



to answer the question as to how much she is worth but she has told me, nevertheless, that she started with a duplex and then ended up with much more. So it puts a different picture on that than if she was saying that she owned a duplex all along and that she is barely surviving. That's quite a different situation.

**Mr. Rotenberg:** I think she's answered the questions quite well.

**Mr. Duksza:** Yes she did. She already said how much she was worth basically by saying how many units she bought recently and I accept this. So that I put this in a context that I agree your situation now, in this bust and boom economy, is not as good as it was, but then so is, of course, that of all the tenants, and the situation here demands government intervention in the economy, in the housing industry and continuing rent review legislation for protection of tenants.

**Mr. Hall:** What about AIB?

Interjections.

**Mr. Acting Chairman:** Order. Mr. Makarchuk is next with the questions and then Mr. Rotenberg and Mrs. Campbell, but we are running into a bit of a time squeeze as the evening draws on. Some of the members will draw away I'm sure, and I know there is a delegation next up. They're particularly anxious to get on because one of their members has to catch the late plane, or at least the early plane, but the last plane to Thunder Bay tonight. So perhaps the members will accommodate them and keep the questions as brief as possible. Mr. Makarchuk.

**Mr. Makarchuk:** My concern is that you're talking about you have to lower the rents.

**Mrs. Carpenter:** Yes.

**Mr. Makarchuk:** By what percentage do you lower your rents from a boom to a depressed period of time?

**Mrs. Carpenter:** Well, in the majority of cases it's at least \$20 to \$30 per unit.

**Mr. Makarchuk:** Which would amount to 15 per cent roughly or something like that?

**Mrs. Carpenter:** Yes.

**Mr. Makarchuk:** You still say you have about a 49 per cent vacancy rate.

**Mrs. Carpenter:** I have over a 49 per cent vacancy rate myself, but in the area it's about 49.

**Mr. Makarchuk:** Right, but in effect would you say that if you continued to lower your rents your vacancy problem would be overcome?

**Mrs. Carpenter:** Our problem is that we're under controls, and we'd lower our rents. As

soon as we lowered our rents, what would happen? We haven't got the tenants to occupy them anyway. We'd have to go before rent review again and ask them to raise our rents. How long would that take? Six or 12 months, before we got it back up?

**Mr. Makarchuk:** Right, but in effect what you're saying is that it doesn't matter what you do with the rents, there are no tenants around, period.

**Mrs. Carpenter:** That's right.

**Mr. Makarchuk:** That really is not a problem of rent control or anything; it's what Mr. Duksza was saying is a matter of an economic problem.

**Mrs. Carpenter:** That's right.

**Mr. Makarchuk:** You're saying that you've been investing your money locally, buying new apartment buildings et cetera.

**Mrs. Carpenter:** That's right.

**Mr. Makarchuk:** It would be nice if we could get the government to persuade Inco to do the same thing and probably we wouldn't have this problem, but Inco, unfortunately, is investing its money in Guatemala perhaps.

**Mr. Rotenberg:** We are not dealing with Inco today. We've had enough NDP propaganda on Inco. Let's deal with the problem at hand.

**Mr. Duksza:** And we have enough defence because the Conservatives are doing nothing in Sudbury.

Interjections.

**Mr. Rotenberg:** Mrs. Carpenter, if we can get back to the problems of rent review, and let's just stay away from the socialist propaganda.

**Mr. Duksza:** This lady brought up the question of economics. It's relevant in this case.

Interjections.

**Mr. Rotenberg:** Had rent review come in at a time when you were at a peak rather than a valley, would you have the problems you have now?

**Mrs. Carpenter:** Not as many, no.

**Mr. Rotenberg:** Secondly, we talk about affordable rents. There are a number of people unemployed and they can't afford your present rent.

**Mrs. Carpenter:** That's right.

**Mr. Rotenberg:** The people who are employed, can they afford market rents?

**Mrs. Carpenter:** Yes they can.

**Mr. Rotenberg:** In other words, what you were saying is that those who are working,



who are making good wages, you would like to bring them up to market rents.

**Mrs. Carpenter:** That's right.

**Mr. Rotenberg:** If you could do that, could you stand the vacancies until the Sudbury economic system got somewhat back into shape?

**Mrs. Carpenter:** We're too far gone.

**Mr. Rotenberg:** It would help though, if you could get the rent up?

**Mrs. Carpenter:** Yes, but we—

**Mr. Duksza:** Talk to your government. [4:15]

**Mr. Rotenberg:** No, we go with this just as much as you do.

**Mr. Makarchuk:** And you criticize me.

**Mr. Rotenberg:** I criticize you for being off topic. Mrs. Carpenter, in effect, if you could get yourself back to market rent, then some of your problems might be solved?

**Mrs. Carpenter:** That's right, even if a subsidy were to be brought in—

**Mr. Rotenberg:** Now we're talking about subsidy. Those who are now working, you say can afford to pay market rent so that you don't need to subsidize the working people.

**Mrs. Carpenter:** No.

**Mr. Rotenberg:** So what you're saying in effect is that the people who are unemployed should have some sort of subsidy to assist them—assist not you but assist them—to pay market rent until such time as they get to work again?

**Mrs. Carpenter:** That's right.

**Mr. Rotenberg:** Fine. Thank you.

**Mr. Acting Chairman:** Mrs. Campbell, perhaps you can wrap us up with one question.

**Mrs. Campbell:** I just felt I wanted to show that there were two points basically on which Mrs. Carpenter wants government intervention. I think there was a misunderstanding in answering Mr. Duksza's question. One has been covered by Mr. Rotenberg and the other is the question of the Assessment Act, where you would like to see the vacancy provisions formerly in the Assessment Act brought back for the Sudbury area.

**Mrs. Carpenter:** That's right.

**Mrs. Campbell:** That's all I wanted to clarify. We shall see you in Sudbury, I take it.

**Mrs. Carpenter:** Thank you, you certainly will.

**Mrs. Campbell:** Those of us who will be there.

**Mrs. Carpenter:** We will certainly have other statistics for you.

**Mr. Acting Chairman:** Thank you, Mrs. Carpenter, I appreciate your comments today and will look forward to seeing you. The delegation going to Sudbury will have an opportunity to share again in your views.

**Mrs. Carpenter:** Thank you very much for listening.

**Mr. Acting Chairman:** The next delegation is HUDAC Ontario.

**Mrs. Campbell:** Mr. Chairman, just before HUDAC gets here, I had commented to Mrs. Carpenter that until now we had heard very little that was new from most briefs we had heard when we were discussing the bringing in of rent review. That is not true in her case. I would just like to make that clear.

**Mr. Docherty:** Mr. Chairman, members of the committee, I believe you do have our brief. Our delegation has geographic representation from the province of Ontario: Mr. Bob Fellner of London, Mr. Howard Sly of Kingston, Mr. Lloyd Ganby of Mississauga and Toronto, Mr. Metro Penziwo of Thunder Bay, and Mr. Bud Schaab of Kitchener. My name is Bill Docherty and I am from Windsor.

I am chairman of the Ontario Council of the Housing and Urban Development Association of Canada, representing more than 3,200 members of 31 local associations across Ontario. We estimate that 60 per cent of our members are residential landlords and at any one point in time that is to say roughly 1,920 or 2,000 individuals. I have already introduced our delegation to you, which I am sure you will acknowledge has wide geographic representation, and therefore our brief does have the benefit of all areas of the province rather than any one specific area.

I would like to say to you that our brief at one time was a minority position of our association and I am familiar with prior briefs from industry who have taken the attitude that rent control is no good and get rid of it. They don't want it under any circumstances and they really haven't given you any answers.

We understand from Revenue Canada, the source of our statistics, there are some 226,000 persons or tax returns in the province of Ontario where people do have rental income and they have disclosed such. We would like you to know that the time and considerations involved in our brief have been very carefully measured, and when appearing before government committees we very often find ourselves in the position where they pick one

or two things out and impose them thinking that the rest of the brief will then work.

I want to caution you that the recommendations we have endorsed are very carefully made so that together they will help solve the problem. Extraction of one or two of the ingredients will certainly spoil the recipe for correction of the situation we now face in the province of Ontario.

I also would like to place the interest before you that we are builders and if this committee endorses the continuation of rent control in its present form all is not lost. While the rental industry will suffer and the older units will certainly become a disaster, we will profit from the intervention of government in housing much as we have before. Let there be no doubt about that, because we supply the land, the brick and mortar that must be used to accommodate the persons that the government in its programs attempt to accommodate.

Unfortunately for the taxpayers of this province, our profits come up front and the fund-raising is left to government to impose and to find the source, which generally comes back to the taxpayer. Huge programs of government housing have proven to be extremely difficult in the economic market; that is, the cost. It is safe to say that today for those units that are under the administration of Ontario Housing, the administration and overhead charges to capitalize buildings, pay mortgages, employ people to administer, and generally attempt to make a profit, in most cases are far in excess of market rents that we charge.

There is one other answer that private enterprise has for it, and that is that they utilize capital cost allowances in buildings to offset taxes on personal incomes. Capital cost in the hands of government is wasted. They have absolutely no use for it, and it does not benefit any of the taxpayers. I ask you to remember that in our opinion this province cannot stand nor will it accept public housing programs that create disaster economically.

Our brief represents an overall provincial point of view. I state that several of our local associations have already appeared before you with similar positions; except, as I have said, for the continuation as we have pointed out. Since you have had our brief, I don't propose to read it entirely. Instead, I would prefer to make statements as I have, and go basically to the body of it.

Also, I would have to pass comment on co-op and non-profit organizations that do a reasonably good job of shelter, and through the emphasis of the federal government are given new life. However, once again I cau-

tion you: tax shelter in their hands is unused; profit on brick and mortar is up front. Very often the administrative ingenuity that is prevalent in private enterprise is completely lost, resulting, even though they have low interest benefits in most cases, these kinds of organizations wind up charging more than private enterprise.

With respect to our brief, I would ask you to go to page 22 which contains the conclusions, which I will quote:

HUDAC Ontario council believes in the absolute termination of controls, however they are described—and let that be very clear—and the return to the free market system. Moreover, in terms of the whole issue of rent review in Ontario we believe termination is the only solution which will serve the best interests of both the public and the landlord.

However, given the political and economic realities of today, **plus the fact that rent review is a highly emotional issue, HUDAC Ontario council recommends:**

1. Continuation of the rent supplement program so that taxpayers' dollars will be given to the needy. Affordability is a social income and not a housing industry problem and therefore the cost should be borne by all sectors of society.

2. Adjustment of rent increases to the CPI provided the following are exempt: (a) vacant units, (b) limited dividend units, (c) luxury units, (d) buildings with six units or less, (e) units not covered under the present act.

3. Appointment of a rentals man acting as an independent, quasi-judicial official to resolve all tenancy disputes. That is extremely important in this day of political sensitivity.

This does not appear in your brief: 4. Return on equity. This must be there to continue the viability of the shelter industry. It has to be.

We sincerely hope our comments and recommendations commend themselves to you, and having the geographic representation with me here today, we will be pleased to entertain any questions and hopefully to answer them.

Just to clarify, the fourth recommendation, return on equity, must be included in order to continue the viability of the shelter industry. Landlords must have a return on equity. Under the present act that is not acknowledged. It is the only industry I am aware of in this country that has had that control imposed on it by government. I am aware of no other industry that has that kind of legislation to fly in to continue its viability.

**Mr. Williams:** Thank you for that clarification. You put a great deal of emphasis on



the rent supplement program as an alternative to rent review if there is going to be some form of continuing government control. To what extent could you see that program as being expanded, while preserving the private entrepreneurial concept?

**Mr. Docherty:** I am not suggesting that. Perhaps you may have placed greater emphasis on that than our brief does. The rent supplement program, as you know, is funded 50 per cent by the federal government, 43 per cent by the provincial government, and seven per cent by the municipality which it benefits. The program allows integration of less fortunate people whose income does not meet the cost of shelter with others who are more fortunate. Therefore, it allows the tenant in large part to seek out the shelter that he best likes.

Also, it does not place in any one locale great numbers of people who need this assistance. Therefore, the integration has a social benefit far beyond comparison with any other public program, inasmuch as it allows 25 per cent—I think that is the maximum number permissible under the current policy of OHC—assisted units to integrate with the other 75 per cent. In families where there are children this has untold social benefits as to what to do and how to do it. In seniors, it allows them a mix of lifestyles that is beneficial in their everyday quality of life.

**Mr. Williams:** On that point, what would be the position of HUDAC as far as increasing the percentage factor from the present 25 per cent. Do you feel that permitting a broadening of the program would be a beneficial move?

The second question I would like a response to is with regard to the rent supplement program. One of the key features to it is the permissive nature of the program with the initiative having to come from the landlord. Unless the landlord agrees to let the building he or she owns come under the rent supplement program, no units would come into the program. I think there are many instances in large projects where there are two or three people in a building who would well qualify, but the landlord refuses because he fears that once they allow one person to apply, his whole building is open to the program and up to 25 per cent of the units would have to be made available for the program if that location was made. With that observation in mind, what is HUDAC's position regarding who should make the ultimate decision—the landlord or the government? and what about the 25 per cent factor?

[4:30]

**Mr. Docherty:** Firstly, I would like to have you understand that HUDAC does not want government in housing. It does not want government in housing in the form of subsidies, in the form of grants, or in the form of donations. As the situation has prevailed now for the past year and a half, we subscribe to the fact that, given the right tools and equipment, this industry is perfectly capable of generating sufficient units to adequately house the province of Ontario's citizens. The single-family situation adequately describes our capabilities today. You have never had as large numbers of unsold houses as there are now in the marketplace as a result of this industry's ability. It's a problem of success not a problem of failure. For years the government has simply said to us: "You are not producing enough." So examine single-family housing market and we say to you we have produced enough. Let us go back to our brief, we are saying continuation of assistance but not expansion. We suggest there are adequate places for the citizens of this province to put their money and the expansion of that program is not needed at this time. A continuation of the program, certainly. A continuation so that the people who need it can have it.

I suggest to you that the onus is not on the landlord to provide the unit. The initial request must not come from the landlord under the present system of supplying rent supplement. The initial response is generated by the government which sees a short supply in an area and advertises for landlords who wish to partake in the program.

This industry subscribes to that program. The program was brought about through HUDAC's efforts in some part. Certainly, it was successful because of HUDAC's participation in it. No such government program can be successful if we don't participate in it. We are the suppliers, we like the program, and we think it does the job. Expansion, no sir. We are looking forward to the day when shelter will require no government intervention of any kind and, thus, the tax dollars can go to more beneficial situations and in generating prosperity in this province.

**Mr. Williams:** Okay. I think you've answered my questions. I didn't want to misrepresent the point that the initiative rests with the landlord with regard to making rent-supplemented units available. I recognize that you don't initiate it but you do have the final decision in the matter as to whether the building will be made available for that purpose, once it's advertised or whether an individual tenant comes to you



asking for that type of relief or assistance. If the landlord refuses to make his building available the tenant is locked out. In that sense, the landlord has control over the situation and makes the ultimate decision as to whether some government relief will be made available.

**Mr. Docherty:** The record will show, sir, that wherever there has been an application for rent supplement units the response has been greater than the request. I let the record speak for itself.

In my opinion, with the numbers of units coming into the market place in this province as a result of the meddling with the market-place through capital incentives and capital costs, allowances for tax shelter to be applied against personal income, any kind of rent supplement advertisements will be adequately met and oversubscribed. I think most of our people here from all areas would agree with us.

By way of example, Thunder Bay, which has had a history of low rental accommodation because of its isolation and numbers, has as you are probably aware if you read the public offerings by some of the public companies, a very vast number of units coming on to the marketplace as a result of those capital cost incentives. My friend from Thunder Bay, Metro, subscribed to the theory that the vacancy rate there will certainly escalate beyond reasonable proportions for the industry on the supply side but it is going to go sky high in most areas.

One other thing I would ask you to measure very carefully is that when we say luxury units, we recognize the special problem of Toronto, which originally brought us this rent control problem, in our opinion.

**Mr. Acting Chairman:** All good things happen in Toronto.

**Mr. Docherty:** We subscribe to the theory that the volatility of the Toronto market was the principal reason that we are faced with this legislation today, and we have recognized that it has a special uniqueness to the extent that we suggest a \$75 premium to the rent allotable for the Toronto area. In other words, they should be able to live with a \$75 higher rent before being exempted.

**Mr. Feldman:** We have just a few questions based on various points in your brief. The first one is, I suppose, a fairly general economic and philosophic point, if you will. It occurs on page four of your brief, where you state in the second paragraph: "This presumption is perhaps the biggest fallacy of them all. The residential rental market is far from a monopoly or even an oligopoly. It is a

market of virtually pure competition," the emphasis being yours. The question is simply this: In your experience and the experience of your members, does the market break down, and under what conditions and what demand and supply ratios does the pure competitive market break down?

**Mr. Docherty:** Are you saying how many landlords do we have?

**Mr. Feldman:** No, sir. You are developing a thesis about the supply of rental space being fixed and the owners are deemed to be few in number. Then you are saying that there is not a monopoly of any group in the residential market or even an oligopoly, but the situation is pure competition. I'm just posing the question to you, in your experience does the market ever break down, and if it does—and I think you've hinted at some indications already that it has—under what conditions and at what ratio does it break down? In other words, I'm querying your statement that it's purely competitive.

**Mr. Docherty:** You know the rental business. I think if you go on to the second paragraph after that: "Entry into and exit from the business is easy and requires no special skill or licences. The startup capital required is not large. By definition a market in pure competition of supply is one in which there are many suppliers, and where the entrance into and exit from the business is easy."

I suggest to you that the statistics I read you from Revenue Canada of 226,000 people would give you quite an insight into the rental makeup in this province as well as our own membership, where we estimate that in our membership there are some 2,000 individuals or corporations who are involved in the rental business.

Now, through our warranty program, which this organization sponsored and brought to the floor and was enacted by the governments, through our warranty program we have found that as many members as we have there are a lot more builders out there. I would ask Peter for the number of registered builders in the province of Ontario.

**Mr. Stevens:** About 5,000 members.

**Mr. Docherty:** It's some 5,000. So if our percentage is something on the order of 60 per cent, then I would ask you to take the gap between our membership and the people out there who are in the building business and apply the same 60 per cent. There are just a tremendous number of landlords out there with no distinct affiliations in some cases and no distinct policies, I guess the common law being that the fragmentation among land-

lords is as complete as the fragmentation is in our industry, which is considerable.

**Mr. Breithaupt:** Would that be equally true across the province?

**Mr. Docherty:** Yes, sir. There are no single markets to my knowledge, and I would ask any of the people here if they come from any areas that have a control by any one individual or a corporation in a community. I am certainly not aware of it, because by and large the rental industry for the most part is in the hands of mom-and-pop operations on the large numbers.

It's like the numbers of housing units that are built. If you go into the statistics—and we have to be very careful because liars figure and figures lie, especially with vacancy rates—they can be very misleading, but by and large, of the numbers of people in the shelter industry, the most productive and greatest number of units comes from the small entrepreneur and that is true in the rental business, the largest number of units are held by small mom-and-pop operations of the total. There are landlords who control 1,000, 2,000 or 3,000 units but they are spread apart and decimated by mom-and-pop operations that have no affiliations and no regulations.

**Mr. Makarchuk:** Mr. Chairman, he still hasn't answered the question. This is what bothers me. This is your item number one, state of the industry. By implication, what you're saying is that there is pure competition. In other words, if there is an oversupply of apartments rents are going to drop.

**Mr. Docherty:** Before I answer your point, I would like to ask if there is any member of the delegation who can answer the question any differently than I have or cast more light. Would you like to, Howard?

**Mr. Sly:** My name is Howard Sly from Kingston. The point we're trying to get at in this section of the brief is the image in people's minds that seems to predominate that there is a very small number of landlords, and somehow they may, in back rooms, get together and set prices or raise prices, and that beside them there are a lot of tenants. There are perhaps more tenants than there are landlords, but there is a great number of landlords too and most of them are small landlords. That's the point we're making. In the city of Kingston there are roughly 2,000 landlords. We went down and checked it out in the registry office and tax office.

I'm not sure I understand the gentleman's question as to at what point the market breaks down. I don't know that it breaks down in the sense that prices collapse, but

certainly when there is an oversupply relative to the economic rent required, rents do not rise and there are decreases indirectly. If you look in some papers you will see "month's free rent," as we have a few in Kingston, "two month's free rent" and other kinds of price cutting. They usually do not reduce the rent, although that sometimes happens. Merely not increasing the rent in line with increasing costs is a form of price cutting.

The point is that there are a lot of suppliers making decisions independently and that there is great pressure on keeping rents down, not just because of the numbers but because the type of business in which roughly 90 per cent or certainly 80 per cent of your costs are fixed in an apartment building. It doesn't change whether it's full or it's empty, unless it is completely empty and you can cut off all the services.

**Mr. Makarchuk:** What you're saying is that there are certain limits, that rents may drop to certain points, but in effect they're going to stay at one level for the simple reason that you have the built-in costs and they are there and you've got to meet them and you would sooner sit with an empty apartment than lose money on an apartment. I mean lose in that you have to rent a building where your income does not cover the cost of the building and operating the building.

**Mr. Sly:** There's a tendency to keep rents very low in order to keep them filled.

**Mr. Makarchuk:** Right, but not necessarily low below a certain point.

**Mr. Docherty:** I just want to refer him to the brief. I would ask him to go, in response to his questioning, to the three pages of charts—which I won't begin to enumerate on because I think they're self-explanatory—pages eight, nine and 10, and I would ask you to examine the cost rises in rental accommodation as opposed to incomes and general cost index. If, after study of that, you still have your question, I'm afraid I couldn't respond any more intelligently than that.

**Mr. Feldman:** I do have one question directly related to the charts if I may, Mr. Docherty, while we're there and that is simply this: As you can appreciate the data you have used is CMHC data by and large. Has HUDAC broken out any of the data, particularly on table one and graph one on page nine, any material or any comparable information for Ontario alone?

**Mr. Docherty:** Mr. Peter Stevens, our executive secretary is responsible for the assembly of the brief.

[4:45]



**Mr. Stevens:** The answer there is that this is Statistics Canada data which is only reported in aggregate. We did today, as our chairman mentioned, get from National Revenue the Ontario figure of 226,000 for Ontario. That is a valid 1976 Ontario figure from National Revenue. As far as the breakdown of the market is concerned, if I may supplement that, I think the best example of a breakdown of the market you had was from the lady from Sudbury who appeared before us. If there was ever a breakdown of the market, that was it, surely.

**Mr. Feldman:** Mr. Docherty, I wonder if we could go back just one step, and it's at page six, the last paragraph, the section under cross demand: "The rental market does not exist in isolation to the home ownership market. There is a cross supply-demand relationship." I wonder, does HUDAC have any data on the proportion of the two markets which do overlap and, more specifically, at what proportion of persons renting you make the statement that "not every rental market consumer can afford home ownership, but a large segment can afford it, and when these consumers purchase there is a change in the aggregate demand for rental housing?" The question is really in two parts: First, do you have any data on the proportion of the two markets which overlap? Second, more specifically, have you done any figuring on what proportion of those renting, in your opinion, could afford home ownership?

**Mr. Docherty:** With respect, and in an answer to your question, I would once more like to take you back to page nine, where for tenants the CPI rent index is 56.3, and for home owners the CPI home owners' index is 215. That in itself should explain to you the consequence of having legislation that suppresses rental charges under the actual cost. We will be very pleased to give you a breakdown of the relationship that you speak to, and we'll make note of the request for a breakout of percentage of owners, renters, et cetera, those that we feel can afford.

You speak to the heart of a very important problem, that problem being that when one is comfortably in the cocoon of government legislation that allows one not to deal with the reality of rising prices—rising prices through the advent of energy, as the lady said, through the advent of municipal taxes, through the advent of maintenance—when one is comfortably sheltered in that cocoon there is no incentive to move out into a priced market that does bear the reality of rising cost.

One of the single biggest contributors to what was a very tight rental market was this

very legislation that we are discussing today. If you look at their incomes—again, on page nine—it allowed them to stay put at almost fixed prices while their incomes were rising far in proportion above that. That has, in a very large part, contributed to a lot of unsold units in the province which we are now working our way out of, because people will only for so long put up with the inconvenience of accommodation that does not keep pace with their income and lifestyles. I think that would be the best answer I could give you in regard to your question.

**Mr. Feldman:** The next question is on page seven, and I must confess it is extremely hypothetical, but we are counting on the experience of yourself and the members of the committee who are with you that perhaps you might give us some guidance on this. It is simply this. You have made the point that "The imposition of rent review implies that some form of control was needed because rents were too high. The green paper is silent on this issue. The question nevertheless has to be faced, 'Were and are rents too high?'" Then there is the statistical data that you provide.

I think you can probably anticipate the question: Could you provide the committee with any estimates of how much you think rents would have gone up from 1975 to 1978 if rent controls had not been put on?

**Mr. Docherty:** I think that is a very difficult question for this delegation or any other delegation to answer. I would have to say this to you—and we have maintained this continuity, to push and pull at the same time—our brief takes cognizance of the fact that under price controls, rent controls of that sort had some semblance of order. To control wages and prices perhaps made the legislation a little less bitter to swallow.

As to the extent by which they might have risen, I think that is a very difficult question for anybody to answer. I don't think I would be prepared to answer it; not pointedly, or with any kind of punch, except to say this to you: in every place but Toronto I am confident that the supply of the market would have been adequate to maintain a reasonability and affordability of rents with or without rent control, because the vacancies in places like Peterborough, Sudbury and Windsor have been reasonable in proportion to the supply; and Hamilton—my friends are coaching me here.

One forgets the problems that one encounters when one travels the province speaking to associations, but the supply has been adequate. Speaking for this industry, I



cannot envision that there would have been an unconscionability in rent increases, because the free market would have worked, as the free market will work in the future given the ARP starts.

I can suggest to you that if you again study our brief, and the next question is, "What will they rise in the future?"—

**Mr. Feldman:** No.

**Mr. Docherty:** It is not a question? Then I ask you to look at our comparison on the various programs that have been instituted by government and which meddle with the marketplace; and there are built-in increases that nobody will be able to control, even with the tightest of controls, because these are here and they are brought on through the programs themselves and they will have to be reckoned with; and there had better be a supply.

**Mr. Williams:** Mr. Chairman, do they not have a copy of the questions?

**Mr. Acting Chairman:** I don't believe so.

**Mr. Williams:** Would it not be reasonable to make a copy available to the staff?

**Mr. Docherty:** I don't think now that they are here that this is an appropriate opportunity—

**Mr. Williams:** Well, there are a few more here.

**Mr. Docherty:** —other than to answer them as they come up. And we are pleased to do that. We don't mind at all.

**Mr. Feldman:** The next question is really more of a technical one.

On page 11 you talk in the second paragraph about the detail in the preparation of the graphs and you refer to the average family income. Then on page 14 you refer to disposable family income. Are the data on these pre-income tax and other deductions gross?

**Mr. Docherty:** I think if you look at the charts it shows pre-tax and after tax, as I remember the charts and the assembly of them.

**Mr. Feldman:** The heading on each of the tables 11 and 12 is average family income. Are you using Stats Can? You are, okay.

**Mr. Docherty:** If you look at "cost of housing," "cost of living" and "total personal incomes" on page seven you will see a column which says "After Tax and Transfer of Personal Income".

**Mr. Breithaupt:** A question on that table, in referring to the CPI rent index, is there any view that that index might understate the actual increases in rents, especially pre-

1975? Do you have any sense as to the accuracy of that index from your own experience?

**Mr. Docherty:** Stats Canada.

**Mr. Feldman:** The next question is page 17.

**Mr. Kennedy:** Could I get a supplementary? On page nine in 1974, the tenants CPI rent index in the first column; it runs from 1961 to 1974; it is up 30.1. Then in the subsequent three years, 1975, 1976, 1977, it jumps 26. So in 13 years it has gone 30.1; in three years 26. It has almost doubled in those three years since rent review came on, and your table on page eight indicates the same rapid escalation in three years. Could you comment on that in relation to rent review?

**Mr. Docherty:** I think the best comment would be that you can't look at that alone. You have to look at the cost per home owner. You have to look at the general cost of living. I think you would be shocked if you made the simplistic comparison of total personal income; and while we rose, we certainly didn't approximate the rate of anything else. I want to suggest something else to you gentlemen, that doesn't very often come out.

**Mr. Epp:** And ladies.

**Mr. Docherty:** And ladies; I am sorry.

**Mrs. Campbell:** We are that shape.

**Mr. Docherty:** I would like to suggest to you that this industry has another cost-pull situation that you are all very much aware of, and that is quality of life.

The quality of the projects that have been built in these last few years has been subject to the input of numbers of people who never got involved before, and that cost pull has had some very dramatic effects as well.

I suggest to you that the types of amenities that are built into these projects now, that have come on in the last four or five years, play a very heavy part in that increase and it is not truly a set increase without value. It is an increase as a result of additional value. So don't be too aware of the figures in that area because projects today that come on stream take quality of life into consideration. In attracting tenants it is given much more attention by virtue of the competition alone; so that is a very important aspect which I ask you to consider as well.

**Mr. Duksza:** Could I just ask a supplementary to that question?

**Mr. Acting Chairman:** Let's hold the supplementaries as much as possible. Can you come back to it, Mr. Duksza? We will have an opportunity shortly. But if we continue

on the supplementaries any longer, we will never get back to the main questions.

**Mr. Feldman:** The next point is on page 17, the second last paragraph at the bottom:

"At the present time there appears to be a spread in rental rate between conomic rent and market rent of about \$75 per month or more. This subsidy is being provided, in large part at least, by the senior governments on new construction only. In addition, it would seem that some indirect subsidy is being provided by owners of rental units existing prior to rent review."

I wonder if you could expand in some detail, for the committee's benefit, on what you are getting at?

[5:00]

**Mr. Docherty:** Well, basically we are saying on new units that are being built under the ARP program, a very high percentage are on the assisted rental program; and the cash flow return on these units is, in some cases, zero, or maximized at around three per cent if they are fully occupied. The capital cost allowance is being leveraged back against personal income so the person who takes ownership does in fact have a profit.

Usually if you say you lost money in most industries, everybody is very sad. But in this industry sometimes when you lose money on capital cost, it hasn't been really as sad as a hard cash loss is in some situations.

On the new units, this is exactly what is happening. These first-year soft costs have created a tax atmosphere that allows you to operate on practically no return. Part of the \$75 a month is really CMHC assistance which, as I have told you, is funded in various manners and the provincial government has put a piggy-back on top of that in some cases amounting to \$50 a month.

The total subsidy, originally \$100, was cut back to \$75 and under the new program is now \$2.50 per thousand of loan on the apartment. But basically that subsidy is being provided. There is a hidden subsidy that is coming through the attractiveness of the unit on its capital cost write-off and has to be reckoned with on down the line.

**Mr. Duksza:** You are saying actually there is no indirect subsidy and that is rather a mythological statement which you just made. Unless you answer Mr. Feldman much more directly you have not answered the question about the indirect subsidy by the industry at all.

**Mr. Docherty:** Did you understand my answer, sir?

**Mr. Feldman:** I thought you were amplifying on what you had explained when you

were going through the brief, to some extent. If you could be a little bit more specific.

**Mr. Duksza:** That is a polite way of putting what I said.

**Mr. Docherty:** The subsidy is, in fact, being contributed by the industry in the sense that there is not a nominally fair return on new units. They are taking practically zero return on the investment because it is being subsidized by the tax aspect of the package they are buying or, in some cases, if it is a small builder who has made some profits on a single-family house—and, God, let's hope he hasn't lost money and gone broke and is a liability on our warranty fund or on the community he operates in; let's hope he has made a profit so he can pay his employees—then he might take the opportunity of sheltering that profit from taxes by a capital cost on a four-plex or five-plex.

That really is a subsidy. Would any of my group add further to that? That is the only answer I can give you. Obviously, when a person takes no profit, and uses the magic of that depreciation to shelter profits in other areas of his business, he is offering a subsidy.

If the capital costing goes off at the end of this year and controls are in place, as we have them today, there will be a lot of us doing a lot of work for the government which is not, indeed, most unpleasant because you will put your money up front and we will get our profit out up front.

**Mr. Feldman:** If I can move to the—

**Mr. Docherty:** Mr. Sly would like to go on.

**Mr. Sly:** If I could go more directly to the question and the other aspects. What we are referring to is a difference that came about a few years ago, and still exists, between the capital cost of a new building and its operating cost. The rents in the market would not support the level of the new costs, interest rates and operating costs.

The federal government appears to have recognized that two or three years ago and brought out the ARP program which is called the Assisted Rental Program. Originally they bridged the gap between the market rent, that is the low rents we have been able to get in the business, and the rent required in order to build new buildings, by giving us a subsidy of up to \$100 a month per unit.

That program has since been modified several times. It came down to an interest-free loan and now we have another approach to it. That is where the remarks originated from. There are some other side benefits and complications having to do with tax aspects and the short term that Bill Docherty was talking about. But the main thrust began as



a subsidy from the federal government to bridge the gap between market rents and economic rents.

**Mr. Feldman:** The remaining questions are on page 20. There are a whole series that relate to your point two.

The first question is on 2(a): "All units of buildings already under control, provincial or federal, to the limited dividend program." I recognize you have already spoken to this and I would just like to extend, if I might, a comment the committee has heard prior, and that is this. We were presented with some evidence that would suggest tenants in limited dividend units are not being afforded proper protection currently under the controls imposed by Central Mortgage and Housing Corporation. Do you have any further thoughts on the matter of limited dividend?

**Mr. Docherty:** There have been isolated instances of rent rises in limited dividends that were larger than the legislation in this province provided for. In some cases they have been double or triple. To stalk after the fact and to acquaint you with the method of protection that CMHC does afford these people, there has to be an audited financial statement under the signature of an auditor tendered to CMHC which recites all the income against all the outgo. There is a provision in that statement for return on equity based on the original estimation of equity the entrepreneur tendered to CMHC. There is a provision in that financial statement, generally speaking, for the replacement factors with respect to appliances, elevators, roofs, carpets, and general equipment in the building.

What happens, and where we get a problem with an LD having a greater increase than the legislation affords, in these isolated instances occurred because of the vacancy factor in the market prior to rent control. There were people in these buildings on two- and three-year leases, who were coming off economically untrue rents. When the cost escalation started—that I spoke to here a few minutes ago, relative to all of the things that go in—it escalated so rapidly that if you were to pay attention to the prior losses the landlord incurred in his ownership of that building, and give him any credit for the money he had invested already, under the legislation of rent control, it was economically impossible for him to keep pace with the cost. That's where these people, coming off two- and three-year leases, appeared to be badly or poorly done by.

But we say this. If the statement is audited, which is a requirement of the operat-

ing agreement, there should be very few of these stories and these of course could be authenticated by the statements themselves. And if truly the costs are there, then there should be some way of fielding those costs by some sort of special application on these individual instances. I know of situations where CMHC has got together with the builder or the owner and said, look we'll take and amortize out the mortgage or drop the interest rate or do something to help these people out, to gradually work them into the market place.

But we think the protection for an LD building is adequate.

**Mr. Feldman:** The next point is one I'm certain that you anticipated already and that's indeed the question of luxury suites. I would appreciate some explanation of what indices you use to constitute "luxury." I mean, how did you arrive at the figures of \$250 for one bedroom, \$300 or more for two, \$400 for three bedrooms with the additional \$75?

**Mr. Docherty:** We took a very careful screening of rental market in Ontario, compiled the vast number of units on a cross-index of rents, and felt that these would by far accommodate most of the market. On top of that we looked at the size and spaciousness of the units in terms of new construction and the prices being charged for them, and felt that these were exceptionally good averages that should not give any hardship to the people who could afford to pay this or more as a result of their incomes and the level of accommodation they were seeking.

However, we did note the specific problem of Toronto which, as I said previously, was the situation we're trying to solve.

**Mr. Feldman:** I appreciate that. I don't think you're going to be able to supply the answer to my next question off the top, nor would I expect it, but I wonder if you could supply us with some data as to what percentage these rents are of the total universe.

**Mr. Docherty:** I would say that, based on the input at the meetings that I had the privilege to attend, these rents would probably handle in most areas 60 per cent of the marketplace. Bud, would you say that—say, in the London area?

**Mr. Schaab:** Do you want under or over?

**Mr. Docherty:** Under \$250. Would you say that for a one bedroom in London that 60 per cent of the marketplace would be under \$250?

**Mr. Schaab:** Yes.

**Mr. Docherty:** Is that a safe assumption?



**Mr. Schaab:** That's representative of London's rents.

**Mr. Docherty:** In terms of Kitchener, which is a disaster?

**Mr. Schaab:** The same or higher.

**Mr. Docherty:** Thunder Bay? It would be under? I would think that, for the most part, 60 per cent of the accommodation would be under. If you wish we'll be pleased to supply you with the reams of paper that we worked with to come up with our position.

**Mr. Feldman:** That, I think, might be helpful to us.

**Mr. Docherty:** Right.

**Mr. Feldman:** The next question is a definitional one. I wonder if you could expand somewhat on 2(e) in which you say, "All units as they become vacant." How would you define "vacant"—when the lease expires, when a tenant moves of his own free will?

**Mr. Docherty:** There is only one interpretation of a vacant unit; that is—nobody in it. I don't meant to be facetious; but that is a unit where the person has transferred his occupancy of his own free will.

**Mr. Feldman:** Okay. The next is 3(b) on which you state, "Rent increases in excess of the consumer price index for the previous year to be approved upon application by a landlord showing cause, the return on equity to be recognized as a cost factor." Can you give the committee some indication of what you would consider to be a fair return on equity as a cost factor?

**Mr. Docherty:** I would say that six per cent would be a reasonable apportionment for return on equity, having regard to the fact that most mortgages which are held by trust companies and life insurance companies in which the citizens of this province participate as shareholders, are getting 10 per cent or better on the first mortgage. I would think that six per cent would be a very reasonable, unaggressive posture.

**Mr. Feldman:** On page 21 you suggest to the committee, and you recommend explicitly, the establishment of rentals man. I wonder if you might be able to expand a little bit on the roles and responsibilities you envisage.

**Mr. Docherty:** The rentals man was basically under the Department of Justice to take the political sensitivity out of the situation that Consumer and Corporate Affairs somehow or other gave to the situation. We think that if the law is to be good and proper, it has to be based on justice for all.

We think that the main problem may be increases that are in excess of the CPI. We

think that that person had better have the equipment to justify it or he's in big trouble. I would also like you to recognize that we're saying CPI after the fact, which means that this industry will carry for a year an inventory at cost, and it will take 12 full months for us to react. We think this is an extremely conservative position, and not very aggressive at all in trying to be decent and restore some sense of overall consistency to the program.

[5:15]

**Mr. Feldman:** Fine. I have one last question which is a very general, overriding one and, again one which I suspect you and your members anticipated. It is this: What impact do you think rent review has had on the production of rental housing in the province? Are there other factors that you consider important in the slowdown that we have seen over the past four years, and what are they and their relative importance as against rent review?

**Mr. Docherty:** There are a number of items. Rent review was certainly the most dramatic and had the most dramatic impact on the inability of people in the business to attract outside capital.

I suggest to you that in countries and communities where they have rent control, the problem of maintaining the viability of investment has wound up in utter and complete failure. In this light, when people look to the marketplace to invest their money, they will certainly find something which is a lot better hedge than real estate which can ultimately wind up in trouble.

Rent control very aggressively affected the ability of the industry to build and sell to the outside world; because you must understand that all units that are built are not kept. A very low percentage are kept; they are sold. As a result of selling, one then goes on and creates the next unit. One maintains some ownership as a hedge against cost overruns. There are all kinds of situations that develop. But basically it is this simple.

If you haven't got a stable industry or if you are a bad financial risk, you are going to have trouble to attract capital and that is precisely what rent control does to the industry, and we cannot build without capital.

Now, there are a couple of other situations that have affected us, but I don't think they are nearly as important as the advent of rent control; I think they are minute. There are a number of things, but really, rent control was the overriding factor.

I don't mean to be a prophet of doom and gloom but, having been associated with this

organization and in this industry for some 20-odd years, I think we are going to be back in the business of providing shelter through government agencies if rent control continues in its present form.

As I said before, we have two sides to the coin. We are not really big losers at that either.

**Mr. Acting Chairman:** Just to advise the members of the committee, we are running to a point where we may be losing our quorum, and I might suggest that the questions be kept to a minimum in the next few moments. I have six people on the list and we do have one further delegation that has journeyed here to Toronto to make a presentation before the dinner hour.

**Mr. Breithaupt:** Perhaps, Mr. Chairman, if members have further questions with respect to the HUDAC brief, they could gather them for the chairman to transmit, and to put in detail what might be wanted; then we could proceed nicely that way. Of course, Mr. Stevens is available locally to perhaps get us further information that the consultants or members might wish. Perhaps that is a way of doing it.

**Mr. Acting Chairman:** I would be prepared to accept that suggestion; and with the members' acquiescence, if we could move on to the next brief, I think that would solve the problem.

**Mr. Williams:** The only difficulty is that there may be vital information that we are not getting on the record, information which should be made available.

**Mr. Duksza:** Well, I think we should select the questions in the way Mr. Breithaupt has suggested and give them to the chairman to transmit to the people here; they will then produce them in written form and we can have them on record. That is better, in fact.

**Mr. Acting Chairman:** I would be prepared to accept that and if members of the committee would submit to the clerk the written questions, we will have them transmitted and request a reply, if we can, from Mr. Docherty. Perhaps Mr. Stevens being so close by, we could get the answers very, very quickly, because we will be reaching the point of deliberation before very long.

**Mr. Docherty:** If that is your pleasure, we appreciate it, and we appreciate the time constraints. We would ask that your questions be directed to Mr. Stevens for response by our committee; and it is terribly important that our committee respond, rather than any individual; we would like that clearly understood.

We do very much appreciate your patience and your having read our brief and the opportunity of appearing before you. Should you find anything that you want to question us further on, we will be happy to reappear at your convenience.

**Mr. Acting Chairman:** Thank you, Mr. Docherty. Your brief has been well presented and we appreciate the time and trouble that you have obviously taken in bringing in your delegation from all over Ontario and in the preparation of the brief that you presented to us. Thank you very much for doing both those things and thank you for the presentation you have made just now.

**Mr. Docherty:** Thank you.

**Mr. Acting Chairman:** Now we have the brief from the London Property Management Association. Mr. Melnitzer, would you like to introduce your delegation to us?

**Mr. Melnitzer:** Yes. Mr. Chairman and members of the committee, my name is Julius Melnitzer. I am a member of the association and also counsel to the association.

**Mr. Acting Chairman:** Mr. Melnitzer, I am sorry, we obviously have just this moment received the brief. Perhaps it was sent down earlier, but we don't know where it was buried. In any case, this is our first opportunity to look at it so we would not only be delighted in your summary of it, but also perhaps in some specific comments within it.

**Mr. Melnitzer:** With me are members of the executive of the London Property Management Association: Michael Arnsby, our president this year, Mr. Currie, our vice-president, Miss Lindsay, our secretary, and Mr. Bill Fellner, another of our vice-presidents. These people have a great deal of practical experience with these matters and they will be available to help me out and, to the extent that you feel necessary, to help you out.

I am sorry that the brief, which, as I say, I sent in advance and which was presented to the minister on Monday night, didn't get to you.

**Mr. Acting Chairman:** Ah, there is the problem.

**Mrs. Campbell:** That's it.

**Mr. Melnitzer:** Oh, no, I sent it directly to the committee, by courier, but I wasn't intending to go into every page of this brief. It is divided into two parts, about 30 pages; about 15 pages devoted to rent review, about 15 pages devoted to the Landlord and Tenant Act.

I understand this particular meeting is concerned only with the rent review. I pro-



pose to leave any specific details open and by way of response to questions. It is also late in the day and I have some appreciation of the psychology of the matter. What I plan to do is tell you a little bit about the association and tell you what our position is in the brief.

Ladies and gentlemen, the London Property Management Association, that name itself suggests something very impersonal. The association represents some 23,000 units in London, which is approximately 90 per cent of the rental units in the city.

I would like to point out, and I think it is very important to point out, that the people here whom we represent, people who couldn't travel all the way, are individual people. They have disparate interests, they have disparate futures and they have disparate businesses. Collectively, they can be seen as an interest group, but in fact some of them have lost their belief in the economy and in their business because of certain legislation, the rent review legislation, that encroaches on a system of free enterprise.

They are people who have devoted their lives to the province as workers and as tenants for a great part of their lives. They have been productive in factories and shops and in businesses and they finally decided to take a risk and put their savings into an investment. That investment, the traditional notion suggests, was a safe one because it was real estate. It was income property. These people feel betrayed. They feel they cannot make a profit and they can't understand why profit is a dirty word, when they've worked so hard so they can take the risk on that investment.

So yes, members of the committee, we are an interest group. We represent the landlords but the landlords are individual people, many of whom have been tenants, some who are still tenants, including myself and at least one other member of the executive committee.

Let me put it bluntly, members of the committee. In the brief we want an end, an absolute end to rent control. At the same time we don't suggest that the tenants be left to what's called "unconscionable increases." The idea of an unconscionable increase, in our opinion, originally came about because it was felt that with the low vacancy situation very often high rents would be imposed as a way of getting a tenant out. The ability to demand any rent gives the landlord, who has a restricted leeway to evict under the Landlord and Tenant Act, a ploy to evict a tenant by naming a rent that he can't

possibly afford. That's what's unconscionable about an increase. The amount of the increase itself when left to the free market forces is not unconscionable.

So we're not saying to you, "Get rid of rent controls and give us a way to get tenants out so that we can say we want another \$75 a month, and then when we get a better tenant in, we'll only charge \$60." We suggest that you enact legislation that holds the landlord to charging a rent to the prospective tenant equal to that demanded of the tenant who has left by virtue of the demand. In that way, without encroaching on the free enterprise, you will assure what I suggest is the heart of the landlord and tenant system, and that's security of tenure.

Ladies and gentlemen, I and the committee have painstakingly prepared a very careful brief. We hope that by the time you come to London next week that you'll have specific questions to ask of us, because you will have had a chance to read the brief, and we will also be back to deal with the landlord and tenant aspect of this.

The minister came and told us, flat out, that rent control wasn't going to end absolutely at the end of December. So realistically, we suggest that if you're not going to put an end to rent controls, and putting it bluntly, you had better change it. The people who support rent control say that it's needed primarily to support the 20 per cent of tenants who have an affordability problem. Now, ladies and gentlemen, ask yourself if the system has worked. Your own green paper says that the increases under—

**Mrs. Campbell:** Wait a minute. It's not our own green paper.

**Mr. Duksza:** Just one correction. It's not 20 per cent. I see most tenant groups have suggested that almost all tenants have this problem.

**Mr. Melnitzer:** Well, I'd suggest that all tenants have affordability problems the way all people have affordability problems nowadays, in relation not only to rent but to many other factors. What that really brings to light is the question why rent is treated differently from other necessary living factors, and why a particular group, namely landlords, should be asked to carry the social burden in relation to an income problem.

[5:30]

Assuming, and without going into a great deal of detail on this point, that subsidy is an effective alternative, the effective subsidy is that it is supported through taxation and the burden spread much more equally



through the population and it is not imposed on a particular interest group.

When I use the 20 per cent figure I use the green paper. When I came here, I trusted that the figures prepared by the department were accurate. I am sure that I could say five per cent because I am a landlord and the tenants could say everybody because they were tenants. I will take the middle route and stick with the green paper.

The green paper seems to state as a mathematical fact that the rent increases under rent control are 11 to 12 per cent. That is what has been awarded. If they are that high, ladies and gentlemen, then I submit to you that rent control has made absolutely no difference except in the isolated case. The problem in London right now isn't rent control; it is getting your apartment rented, it is what the market will bear.

I venture to say that I have conducted a great deal of the rent review hearings in London and let me tell you that as far as the tenant is concerned, the eight per cent has turned out to be a minimum and not a maximum, so that rent review the way it is now doesn't work.

Let me tell you another reason why you should change it. Look at page 14 of the green paper, at the charts, table 1(4), that deals with rental starts between 1973 and 1977. I was particularly interested in the question to the last gentleman about the other factors that affected the decline in housing starts. What is interesting about table 1(4) is this: if you look at private rental starts, 1973, you will see that they, in 1973, represented 76.2 of all the rental starts.

In 1977, private rental starts represented 17.1 per cent. It has been cut to one quarter of what it was. So even if someone could argue that there are other factors that account for the total drop, it is not as easy to make that same argument for the fact that the percentage of private starts has decreased so dramatically. People just don't want to do it any more.

If we had no rent control, and we had 15,000 units started and we stayed at the 1973 level, 11,000 or 12,000 of them would have been started by private industry. With rent control, we have about 1,400 or 1,800. So it is affecting the situation.

If you look at the last column in table 1(4), you look at 1973 and you will see that total rental starts as a percentage of total housing starts were almost 40 per cent. In 1977 it is 23.1. So maybe there is less money around, for other reasons, the economy, the land speculation tax, et cetera, but no matter

how much money there is there is one thing that is clear, people aren't spending on rental housing; they are spending it on some other type of housing.

In that situation the only variable is the rent control. If you are going to stick with some form of controls, ladies and gentlemen, then we would support—and I say very ambivalently, because we want an end to rent controls—a tenant initiated application system. That would be a system where a certain guideline, adjusted yearly, would be set. Increases below that guideline would not be subject to rent control. Increases above that guideline would be subject to rent control if the tenant desired rent control.

The advantage of that system is outlined at page eight of my brief. First of all, if you take a tenant initiated application system and say let the landlord and tenant agree, the first thing you do is allow return to the free market system where the landlord and tenant can agree on what is best for both of them. If it is important enough for the landlord to keep the tenant, as in any other market situation, he will lower his demands.

The cost to the government would be less because you wouldn't have applications where the tenant is happy to pay 10 per cent but the landlord is forced to go through the exercise in any event. What I have heard from tenants about this is, you know, there are so many of us who are uniformed that we won't be able to exercise our rights.

The way the government has handled it is through mass dissemination of information. I suggest that the same thing can be done in a new system. If you want people to exercise their rights, you are going to have to educate them.

If we are going to have rent review hearings, we take a very strong position that there is going to have to be a rate of return factor. As you all know, there is no return on equity, or whatever else you are giving a rate of return on simply isn't being considered. What we ask you, and I say this somewhat from a lawyer's point of view, is that if you are going to include a—

Mrs. Campbell: That's fatal.

Mr. Melnitzer: It might be, but if you are going to put in a rate of return, you had better make it a rate of return on something that means something. What is a rate of return on equity going to be? You had better define it carefully so that it means something in terms of cash flow, because that is what we are talking about, cash flow.

We are going to ask that if rent review is going to be kept, and if this tenant initiated

application system is going to work, we have got to have some changes that give the landlords a little more certainty so a person will know what is coming out of his business in the next year.

We need more consideration for the cost of capital expenditures, because as the legislation presently stands landlords are unable to create reserves for the replacement of wasting assets, such as appliances, carpets and other equipment. Annual costs generally tend to be understated until the replacement of the assets becomes a necessity and then, when there is no appropriate cash flow when you go to the bank they hit you with a high interest rate, so the vicious circle starts to run again.

We also don't know now whether the carrying costs of capital expenditures are going to be allowed by a rent review officer, and very often in my experience and the experience of the people who are with me, it all depends how you put it in your cost-revenue statement. You have to get rid of those anomalies. You have to let people know what they are going to be able to get.

We are opposed to any exemption system. The reason we are is that we say the exemptions are undefinable. Historically, if you get legislation that is more exemption than rules, it becomes unworkable, it becomes unfair, it is very indefinable. One only has to listen to the answers of what a luxury apartment is to reach the conclusion that no sensible person is going to be able to figure it out. We don't feel that that can work.

There has been a suggestion that there should be a self-regulating industry tribunal to govern unconscionable increases. We don't agree with that, because we don't think that a self-regulating tribunal can give the appearance of partiality and fairness. So it is neither fair, period, nor probably politically feasible.

Summarizing briefly, and I hope I haven't been too long, we want an end to rent control. If we don't get an end to it, we want certainty, we want a rate of return and we want it not because we are landlords, but because many of us are people who put a lot into this province and want something back, sometimes called profit, which isn't a dirty word.

Ladies and gentlemen, I have put this colloquially and I have put it generally, but we have worked hard on this brief and we hope that by the time you get to London you will have read it. Thank you.

**Mrs. Campbell:** What is your vacancy rate in London? Do you have those figures?

**Mr. Fellner:** I know, from my own experience in a project I sold in October, that the vacancy rate was running around 10 per cent. There are 14 out of 135 vacancies in that project; so you are looking at around 10 per cent in the townhouse sector. In highrise buildings we have approximately 2,000 units coming onstream this spring, and of those I know of only one under the ARP program that it is being subsidized. So we are going to have a tremendous inflow of units available in London this spring, even in the housing sector.

Out of my own engineering office I know we are working on approximately 300 to 400 acres of single family dwellings. They are all coming on stream this summer. So we certainly don't have a housing problem there, particularly a rental housing problem, and we found it was always that way in our own project.

We lost several tenants to the AHOP units. I dug out some figures this morning—of the tenants we had, all of them were above the \$15,000 a year bracket—and I think 31 per cent were above the \$25,000 a year income bracket—and they were all on rent control. It is hitting the wrong sector, the sector that requires help.

**Mrs. Campbell:** The reason I asked is that you must know that we have had suggestions that, depending upon an ascertainable vacancy rate, municipalities could perhaps choose to opt out of rent control. I take it that is not one of the exemptions to which you referred.

**Mr. Melnitzer:** No. May I say that I have dealt with this specifically in the paper and it is what is called, I guess, regionalization in a broad sense. My first submission would be that you are again dealing with something that is very difficult to define. How do you define the area within which you determine the vacancy rate? It is the same difficulty that I have with the concept of "fair rent"; it is so subjective.

**Mrs. Campbell:** Yes.

**Mr. Melnitzer:** Then, of course, what you end up with is—given that legislation which has its heart in Queen's Park is also susceptible to vagaries around the province—what is it going to be like with different municipal councils really more directly subject to day-to-day pressures. Presumably, they would be able to change this as the vacancy rate changes. When do you determine the date? You determine a vacancy rate probably six months after it actually occurs, so you end up affecting the people.

What are you going to do—take a census every time? By the time figures get through



the bureaucracy, you are dealing with last year's situation. So I don't think it is a viable concept; not so much because it is not intellectually appealing, but because, in our submission, it is not workable. It seems to me that if legislation of this kind is going to work it will have to be as simple as possible with as few variables as possible. I think regionalization departs from that principle.

**Mrs. Campbell:** There has been a suggestion that Toronto and Ottawa, for example, are the only two areas that require some special kind of consideration. That would be Metropolitan Toronto and Ottawa, I presume.

**Mr. Melnitzer:** At that point, Mrs. Campbell, I become an interest group and I'd say you can "stick it" to Toronto and Ottawa and leave us alone with the rent control.

**Mrs. Campbell:** I thought it might appeal to you. That is why I raised it.

**Mr. Melnitzer:** It does, Mrs. Campbell.

**Mr. Makarchuk:** You certainly aren't recommending it, are you?

[5:45]

**Mr. Melnitzer:** I am against it in so far as it is left to the discretion of individual councils. To that degree, I disagree with it.

I have tried in the paper to stay away from a "No, no, no" approach. I would try to make our own recommendations as to how we prefer it. And we have taken alternatives because we are realistic.

**Mrs. Campbell:** But you wouldn't, I take it, really take too much exception to it if there were some provision such as in the new Judicature Act where we are going to specify the areas where we are going to bring in the francophone system. That will be specified in that act. Would you have any objection—and I am only asking because I want to get the feelings of people—if there were specified areas?

**Mr. Melnitzer:** I would have less objection then to the concept of regionalization, and I would argue very strongly that London is not to be included there. That is one of the reasons why we have a different—

**Mrs. Campbell:** And Sudbury?

**Mr. Melnitzer:** Yes, certainly.

The reality of the situation, Mrs. Campbell, is that we are here representing London. That is why we put a separate brief in with HUDAC. Generally, we agree with them. But there is conflict on interest on some points. That is why we are here separately.

**Mr. Williams:** I guess, really, you have answered the question I was going to put

about the realistic consideration or otherwise of imposing exemptions based on vacancy factors. I think you have responded to that clearly—that it is, in your judgement, unworkable.

I think it was Mr. Fellner who, speaking a few moments ago, made some reference to disposition of property in London. I wasn't clear whether that was related to the rent review matter or had some other factor associated with it. Could he clarify that?

**Mr. Melnitzer:** Knowing him as a personal friend, let me tell you that his position is that rent review is driving him out of the business.

**Mr. Williams:** Would he care to elaborate on that particular property disposition he made reference to?

**Mr. Acting Chairman:** Why don't you come forward, Mr. Fellner, and share with us your thoughts?

**Mr. Fellner:** I would be more than willing to. I am what you would consider a small part-time landlord in London, because my main business is engineering work. A few years ago my brother and I got involved in a townhouse project in London. We had the land from an estate—it was an old gravel pit—and we designed and constructed and operated 35 townhouse units, up until October 1977. We had constructed them since early 1970. We, like many others, were caught by rent review operating portions or phases of that project in a loss when rent review came in.

We went to rent review hearings, spent vast sums of money on accountants' fees and legal fees to try to get an increase to bring us up to the zero cash flow at least, and were unsuccessful. So we looked at our statements; in fact, I asked my accountant this morning to bring some figures out to me. Each unit that we had we estimated was worth about \$27,000 each in this project because that is what we sold the project for. That is considerably lower than a comparable condominium unit because they were bringing in about \$35,000 to \$39,000 a unit. But because it is a rental the unit is worth only the money that it can bring in.

So we looked back at our previous statements and we found that in 1975 we were making approximately \$170 a unit per year on these 135 units. In 1976 our profit dropped to \$98 per unit. At the end of October 1977, just before we sold, we were in a loss position of \$45 a unit on the project—losing \$45 per year on each unit—for about a little over \$6,000 on the whole project. This was



using the rent review guidelines and decisions that had been given to us by the board and the appeal board.

With the equity that we had in it, it wasn't worth it to stay in the business. The units were worth \$27,000. We had a debt against those units, with mortgage debts and loans and what not, of about \$21,800, so if we sold the project for \$27,000 and subtracted that \$21,800 we were left with a difference of \$5,200, which we considered to be the equity that we had, or the money that we had in the project.

So if we were to take that \$5,200 and stick it in the bank or in a mortgage at 10 per cent, we found that we could obtain \$520 a year instead of getting this \$45 a year loss. So we were making a substantially higher amount, and we were getting no hassles from many of the tenants that were abusing the Landlord and Tenant Act and hiding under both the Landlord and Tenant Act and Rent Review Act. So it's precisely what we did. We sold the project and we were fortunate enough to get out of it.

You'd wonder why somebody would buy a project like that. I don't want to be derogatory to the person that did it, but the gentleman that did it had reasons very different from what we had. He is in a business where he may get a very high income in one year, and not have another income like that for perhaps one, two or three more years. So when he gets a high income like that, he's in an extremely high income tax bracket in that year, and he needs something that he can write off against that income. One section of our project qualified under this MURB thing that the federal government has where you can deduct a book loss and deduct that from your own personal income and save taxes. He thought that our project was ideal for that, so he bought it.

The difference is now that the whole tide of this thing has turned now because of that sale, because of the position that we were forced into. We designed and built that project and we took a great deal of pride in it. It was one of the better projects, I would feel, in London, that I dealt in. They were for a middle income type of bracket. His purpose was not to get a return on it, but to reduce his taxes. So it's a sad situation when the purpose of buying a property is not to operate it as a financially viable entity, but to operate it solely to offset taxes from another source of your income with the long-term concept that the buildings will be of junk value. This is really what creates slums.

Due to the government fumbling with Band-Aid programs that we've had, federally and provincially, in MURBs and ARPs and AHOPs, the rental industry is now entirely dependent on these tax angles and gimmicks and subsidies to survive. The next step really is extinction, and continuing the unfair, discriminatory and financially unsound rent review that we have now will guarantee that.

That gives you one example of what it has done to me. It's frightened several hundreds of thousand dollars out of the rental accommodation market through two property owners—my brother and I—and it's funnelled it into other areas, and there are certainly lots of other areas in our economy, and to many other people, south of the border where the situation is much more attractive to invest your money.

Mr. Williams: I just have one question there and then I have a further question for Mr. Melnitzer, and I'd like to get them both in if I could before we break.

You didn't indicate, in outlining your particular difficulty, how many occasions you had to go before the local rent review officer to request increases in rents and what the experiences were there. I presume that you did go through the procedure but that you weren't satisfied with the end results, but could you elaborate on those experiences that caused you to make this decision?

Mr. Fellner: Well, we went to the rent review office first and had our hearing. We calculated what we felt was initially required percentage-wise to bring us to a break-even point, because with rent review the industry all of a sudden has to work on a different basis than it did before.

In the rental industry you built a building and started at a loss position for a few years then you raised your rents gradually until you reached zero cash flow. Then you started to generate a cash flow and at the end of 20 years you've got a fairly substantial cash flow. You might have 20 or 30 per cent, and people say, "Oh, that's very high", but they don't consider the money you were pumping into it for the first five years when you were carrying that project.

With rent control, those who had built in the first five years before it came in were stuck down there. All they could get was a cost passthrough. And there is never any hope of getting up there. We went to the rent review board and they allowed us some increases that were extremely high, in fact we couldn't have got the rents on the market.

On the other hand, they gave us some that were so low they weren't carrying themselves.

So we were stuck on some by a ceiling dictated by the market, while we had others that were too low.

**Mr. Williams:** So on balance you feel you couldn't survive economically on that project.

**Mr. Fellner:** Overall that put us into a loss position. I asked the board for the reasons for their decision and they denied them to me. We put our case to obtain the information in the Ontario courts and we did, but it cost a tremendous amount of money. The whole thing has soured me.

**Mr. Williams:** Mr. Melnitzer, there is just one point you made in your submission that perplexes me. It seems inconsistent with your request to get the government out of the business. It is your suggestion, as I understood it, that it be replaced, if necessary, by legislation that would dictate or control the rents that would be passed on to a subsequent tenant so as to ensure that the right to increase would not be used simply to get rid of tenants. Doesn't that contradict your whole philosophy because it creates a control where a landlord cannot adjust his rent whatsoever? He's got to apply the previous rent which may not be realistic or equitable at all.

**Mr. Melnitzer:** Maybe I hadn't made myself clear. To the degree that it suggests a need for some regulation it's clearly inconsistent. But what it does is an appreciation of the reality. That reality is the security of tenure embedded in our landlord and tenant law. I don't think that's going to leave.

That being the case, the question is, "How do we preserve security of tenure and get rid of rent controls?" The problem with rent controls is that they dictate an amount which you can charge. I say, why don't you enact legislation that doesn't focus on the amount but focuses on what you are doing by purporting to increase your rent?

Let's assume that a landlord is charging \$150 a month. He then goes to the tenant and says, "I want \$250 a month." The tenant can do a number of things. He can say, "I can't afford it," or he can say, presumably in the normal free market situation, "I can get it across the street for \$175 and that's where I'm going." The landlord can also say "Well, I have no intention of charging \$250, I just want you out and I'm going to charge you \$250." And that's what we don't want.

What we have to do is to say to the landlord, "If you demand an unreasonable rent from the former tenant, then you must show your good faith by insisting on that from any new tenant. If you don't do it, you're going

to have to pay some damages to the old tenant." That's what I'm saying. Don't focus on the amount of the increase; focus on why the landlord is using an increase. That's my point.

[6:00]

**Mr. Williams:** Well, I appreciate your clarification, although I think it is something one would want to take under advisement before pursuing that too far. I think there are a lot of pitfalls there. I think it is well-intentioned, but I think it might create more problems than it would solve.

**Mr. Dukszta:** It would be easy to have rent review legislation—six per cent.

**Mr. Melnitzer:** Well, I don't know if it would. It really reads in the context of my entire brief—

**Mr. Williams:** I think you are dealing with the exception rather than with the rule or the reason for increasing rent because you are discounting the whole law of supply and demand.

**Mr. Melnitzer:** No, I am not. If you agree the law of supply and demand suggests those situations are so absolutely rare, then you have made my case for not needing any intervention of any kind at all.

What I am saying is if you are concerned that too many landlords use increased rent to detract from security of tenure, here is how you can control it. But if you don't think landlords, as I don't think landlords, in the vast majority, use that to get tenants out, then—with all respect, sir, I am glad somebody has come around to my point of view—we don't need any kind of legislation for the odd bad apple.

**Mr. Williams:** It is just that that exception is so contradictory to your whole approach in the rest of your brief.

**Mr. Melnitzer:** It is only because of the concern that is generally felt for security of tenure I felt I had to deal with it.

**Mr. Williams:** Thank you.

**Mr. Acting Chairman:** Now, have we reached the point where we have exhausted the members of the committee?

Thank you, Mr. Melnitzer and the members of the London Property Management Association; Mr. Fellner.

**Mr. Melnitzer:** Thank you, Mr. Walker.

**Mr. Acting Chairman:** I appreciate very much your appearance before us and presentation of the brief. We do have the benefit now of the summary, the actual brief, and your comments which have been recorded for posterity. We will make use of those in the

deliberations likely in the next couple of weeks.

The members of the committee should regroup here in less than an hour as there are—

**Mr. Duksza:** An hour and five minutes.

**Mr. Acting Chairman:** —an hour and five minutes, perhaps, as there are some 14 delegations to appear before us this evening and it might be wise for the members to have a couple of belts before they come back.

The committee recessed at 6:04 p.m.

## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
 Campbell, M. (St. George L)  
 Charlton, B. (Hamilton Mountain NDP)  
 Duksza, J. (Parkdale NDP)  
 Epp, H. (Waterloo North L)  
 Hall, R. (Lincoln L)  
 Kennedy, R. D. (Mississauga South PC)  
 Lane, J. (Algoma-Manitoulin PC)  
 Makarchuk, M. (Brantford NDP)  
 McCaffrey, B.; Chairman (Armourdale PC)  
 Rotenberg, D. (Wilson Heights PC)  
 Samis, G. (Cornwall NDP)  
 Smith, G. E. (Simcoe East PC)  
 Walker, G.; Acting Chairman (London South PC)  
 Warner, W. (Scarborough-Ellesmere NDP)  
 Williams, J. (Oriole PC)

### Witnesses:

Carpenter, B., Vice-President, Multiple Dwelling Association of the Sudbury District  
 Docherty, W. G., Chairman, Ontario Council of the Housing and Urban Development Association of Canada  
 Duffield, E., Tenant, Apartment 3, 251 Jane Street, Toronto  
 Fellner W. E., Vice-President, London Property Management Association  
 Lang, J. J., Ontario land economist  
 Melnitzer, J. H., Legal Counsel, London Property Management Association  
 Schaab, B., Ontario Council of the Housing and Urban Development Association of Canada  
 Schwartz, J., Ontario land economist  
 Sly, H., Ontario Council of the Housing and Urban Development Association of Canada  
 Stevens, P., Ontario Council of the Housing and Urban Development Association of Canada

### Assisting the Committee:

Feldman, L. D., Lionel D. Feldman Consulting Limited, Toronto













No. G-14

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection

**Second Session, 31st Parliament**

Wednesday, May 10, 1978

Evening Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## LEGISLATURE OF ONTARIO

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WEDNESDAY, MAY 10, 1978

The committee resumed at 7:15 p.m.

### TENANT PROTECTION

(continued)

**Mr. Acting Chairman:** Good evening, ladies and gentlemen. The committee is meeting primarily to accommodate groups of tenants so that they could appear, at their convenience, before the evening session.

Committee meetings on Wednesday evenings are not usual and, as a result, a number of the members of the committee may be late because of other commitments, and some may be unable to attend because of commitments made some time ago.

We are recording this evening's meeting for Hansard, so that all members of the committee will be able to have the comments before them when it becomes time to consider the report of the committee.

There are many groups here this evening, some 13 at the last count. We want to make sure that everyone gets a fair hearing and is able to make their comments about the whole matter of rent control.

I would hope that if there are printed briefs you will be able to leave copies for the members, and perhaps we won't have to read every word of every brief; and I would appreciate a summary of the conclusions if that is convenient.

Again, we don't want to cut anyone off from saying whatever they want to say but, obviously, with 13 or 14 groups this evening, to get out of here any time before midnight is going to take some accommodation and some control by all concerned.

The committee very much wants your views, particularly on the matter of the present program and whether it should continue and, secondly, if it does continue, how it could be improved.

We have heard, during most of our day sessions, comments from some of the larger landlords and the developers. We now want to hear from the tenants and I hope the groups that come before us, and, indeed, any one of you who has a comment that you want to make as to how the system can be improved upon, will certainly feel free to speak.

I thought we would take the groups in the order that I have and if there are some additional ones, please let our clerk, Mrs. Noakes, who is sitting to your left and to my right, know if you wish to speak to the committee. You might just come up and tell her that at your convenience.

**Interjection:** Mr. Chairman, as an act of courtesy, and as this room is inadequately ventilated, I would respectfully request of you—I am a user of tobacco myself—that you ask people who smoke to refrain from smoking during the meeting.

**Mr. Acting Chairman:** Well, I think that is quite a reasonable comment to make. It certainly won't trouble me in the slightest, and I hope that all of us will be able to accommodate that very reasonable request.

I understand there are going to be some larger groups joining us later in the evening. The room is going to be crowded. We are going to have to be able to hear the comments that are made, so I would appreciate your attention. If you have to have conversations, and that goes as much for the members of the committee as it does for our guests, perhaps you could have those in the hall. We want to accommodate everyone and make it convenient for as many as we can. We could not take a larger room because of the difficulty in setting up the Hansard recording equipment, so if we are a bit crowded, I hope you will understand that it is only because we have to deal with this as best we can.

The first name that I have on the list is Francois Jeanjean. Is that person with us? No? Well, we will stand that name down, then. 200 Chalfarm Tenants Association, Mr. Moses Siriboe is the next name that I have. Is Mr. Siriboe here? No? Well, if not, we will move along until we connect.

Rita Kazor of the King Towers Tenants Association: Would you like to come up to the lectern, please, and speak towards the microphone so that we can record not only your comments but the questions and answers that may result from them.

**Mrs. Kazor:** Fine, I would like to apologize because when I went to type up my comments this afternoon, my typewriter was



broken and I don't have copies for the committee.

**Mr. Acting Chairman:** Well, we will take it from Hansard, then. You go ahead and just make whatever comments you would like to make.

**Mrs. Kazor:** King Towers is a community of about 800 tenants at 3434 Eglinton Avenue East in Scarborough.

Over the entire period in which rent review has been in effect, the tenants here have worked hard to have successful hearings because we agree with the concept of rent review. That we have not been satisfied with the rent review program has more to do with the way it has been administered than with the concept.

This brief is being presented to show how the rent review program administered in Scarborough has been frustrating for tenants in obtaining information pertaining to their hearing, but it has helped keep our rents at a lower rate than if there wasn't any form of rent control at all. The contents of this brief deal only with the property that I live at in Scarborough.

We have had six hearings since May 1976 and have another one scheduled for May 17. In all the hearings, the King Towers Tenant Association has represented the tenants at each hearing along with a representative from the Federation of Metro Tenants Association.

I personally was involved in preparing all of these hearings as well as being a representative for the tenants. As yet we have never received the proper information from the cost-revenue statement of the true base rent figures for January 1974 in order to do a true calculation. We have as yet to see all the bills or receipts the landlord has to substantiate his cost-revenue figures. This has been asked for repeatedly at all hearings.

Hearing number one was held May 25, and 96 units out of 214 were taken to rent review with the landlord asking for a 16 per cent increase. The hearing was held in an orderly fashion attended by over 80 tenants. Mr. Jones, the tenants' representative from the Federation of Metro Tenants, was allowed to present his arguments on behalf of the tenants. A decision was reached in August and some tenants were given an eight per cent increase, others a 10.

Hearing number two took place on November 30, 1976, with 33 units of the 96 taken in May, the landlord asking again for another 16 per cent increase. The following is a summary of what happened at this hearing. A rent review hearing date was set for November 30. The tenants waited until Novem-

ber 18 for the cost-revenue analysis before the tenants association representative asked for a postponement. Mr. Timney told her no, he wanted to get this building straightened out before their January 1 increase was due. Mr. Timney said he would get in touch with the landlord. The date of this conversation was November 18. However, a cost-revenue analysis did not get into his office until November 23 at 4:30 p.m.

On November 24, the representative went to the rent review office and asked for the information the landlord had submitted. That file which was given to the representative contained only the May 25 cost-revenue plus the November 23. The representative asked for a blank cost-revenue analysis and was refused one because they do not give these to people for recopying purposes. The tenants' representative had to sit in the reception area and balance the papers on her knee and copy everything on her own paper. All other information should have been included under section 5, subsection 13 of the Residential Premises Rent Review Act. This withholding of information from the tenants is certainly a biased approach on the rent review officer's part.

A rent review hearing was chaired by Mr. Kivlichen, who started off by lecturing the tenants who were present on how the landlord had to make a profit. Mr. Kivlichen then went over the cost-revenue analysis and changed the landlord's projections for the year from \$22,000 to \$39,000, as he was allowing for possible increases in taxes, fuel and hydro, justifying his actions by saying all rent review officers in Scarborough did this. When questioned about such increases that might never materialize, he said he didn't want tenants freeloading.

We do not freeload, nor do we intend to freeload. We do not intend to stand by either while the rent review officer allows the landlord to freeload off the tenants. The rent review officer chastised us for not respecting his position because two of the representatives were sitting on the same side of the table, yet the landlord and his representatives were sitting beside him. Mr. Norm Brudy, the tenants' chosen representative from the Federation of Metro Tenants' Associations, was treated in a very rude manner by the chairman and then he was told he wouldn't allow him to speak any more during the hearing.

The rent review officer would not accept any of our points at the end of the hearing which would allow us to complete our case. We were told off for doing a title search on our building and the rent review officer said he would be most offended if he were Dr.

Leung and we had done this to him. The rent review officer said he would help us to clean up the building by March. We pointed out that the same thing was said at our last hearing and no change was made in the service. We asked that he withhold his decision until the situation was remedied. Apparently this is not possible and again we had to rely on promises.

When we complained about the lack of emergency service, the rent review officer told us that Cadillac apartments had a similar problem which was solved by the superintendents unionizing and not working after the supper hour, which had nothing to do with our building.

The rent review officer's attitude throughout the hearing was to be impatient, short and even rude to the tenants' representatives and in marked contrast, patient and protective to the landlord. Throughout the hearing he continuously repeated that he was fair and unbiased to both sides. The rent review officer excused all our lack of services by explaining that the landlord was going through an experimental year. That this should be done at the expense of tenants is intolerable.

One of the tenants told the rent review officer that last spring a team of tenants organized by the tenants association cleaned the grounds, picked up litter and glass, swept and scrubbed the stairwells from the 17th floor down and scrubbed baseboards and walls in the hallways. She explained that since then conditions have deteriorated and that glass, dirt and litter cover everywhere. The rent review officer then asked if the litter was being thrown from the balconies and if any tenants present at the hearing were responsible for this litter.

[7:30]

We brought to the attention of the rent review officer that three units in the building were being charged improper rents. For example, tenants were charged rents above those awarded by the August decision on our May 25 hearing and other units did not receive their rebates. The rent review officer issued a warning for the landlord to watch this or he might be charged. When we mentioned cases like this at our May hearing the landlord was given the same warning. The second makes the first look rather empty.

Needless to say, we are not at all pleased with the three-hour proceedings of our hearing. During all this time we were only able to present part of our case. We were prepared to proceed in an orderly fashion as we had at our previous rent review hearing in May, yet this was impossible to do under the conditions. The decision of this hearing

was an 8.95 per cent increase. One unit appealed this to the appeal board and the appeal board rolled the decision back to 2.39 per cent.

Hearing number three, November 30, 1977: 18 units of 33 units taken in November 1976 went for another 12 per cent to almost a 20 per cent increase in some cases. Tenants asked for an evening hearing and Mr. Timney refused. The tenants wrote to Mr. Robbins, director of rent review, in order to get an evening hearing. Mr. O'Reilly, the rent review officer, called an in camera hearing at the request of the landlord.

Mr. O'Reilly wouldn't let us present our case and the landlord's agent was present and willing to show the receipts as proof for the cost-revenue figures. Mr. O'Reilly told us we had to trust him because he knew best how to calculate the figures properly and as tenants we didn't know or understand the figures properly and as tenants we didn't know or understand the rent review formula for such calculations. This hearing was just as bad as the previous hearing. With tenants not seeing any cost-revenue information, a decision of 8.95 per cent was given and 14 of the 18 units are appealing this decision.

On January 11 another four units were taken to rent review. This time Mr. Kivlichen was our rent review officer. No new information was submitted and the same cost-revenue analysis was presented. Tenants were still not allowed to see the bills presented by the landlord. The same old story was given to the tenants that once again we didn't understand the calculations and we had to trust the rent review officers to do this.

The landlord was asking a 12 per cent increase and a decision of 11.12 per cent was given to him. Reason for a higher percentage than the November 30 hearing was that the landlord had spent \$20,000 more than he had projected for in 1977, and therefore the rent review officer had to make up the difference on this hearing. Yet our landlord has always operated with a profit and has never been in a loss situation since buying the building in October 1975.

Hearing number five was held on February 9 with 10 units going. We had the same officer, the same old arguments and the same reasons for an increase. He was asking a 12 per cent increase and the tenants received an 11.12 per cent increase and they are appealing this decision.

Our last hearing was held on April 12, 1978, with 16 units. This hearing was conducted by the same officer as we had for the previous two, proceeded in the same manner, and had the same cost-revenue analysis



presented. However, based on the same figures as before, the decision given by this same officer was 8.97 per cent—a reduction from his two previous decisions. Tenants are also appealing this decision.

Pointing out a few facts regarding one property alone clearly shows that Scarborough rent review officers have no regard for tenants at all. To add to this our tenants' association has also written letters to Mr. Robbins, the director of rent review, hoping to get some clear-cut guidelines for the Scarborough rent review office to follow. This hasn't happened.

In view of what has happened to the tenants of 3434 Eglinton Avenue East in dealing with the Scarborough rent review office we strongly feel that rent review must continue, but with a drastic change in the way it is to be administered. The following are a few recommendations that King Towers Tenants Association would like this committee to consider.

Tenants should be treated with the same respect as landlords receive at a hearing or just by visiting their office. Rent review should have only one hearing a year on each building, and it should be filed across the entire property. In larger municipalities, each borough or regional office should take buildings on a ward-by-ward basis for yearly hearings. Six per cent should be the maximum increase and not used as a beginning of a bargaining point for the landlord.

A landlord must have his cost-revenue statement filed exactly two weeks before the hearing date. Failure on the landlord's part to do this constitutes an immediate cancellation of the hearing. A new cost-revenue form should be made out and the fringe benefits of lawyers' fees, accounting fees, et cetera, should be removed from it.

Rent review officers who run as candidates in any level of government should not be allowed to return to the same office after the election. For example, Mr. Timney, our senior rent review officer, ran in Scarborough unsuccessfully for the Conservatives in the last provincial election and went right back to a senior position in Scarborough in the rent review office.

People who have been employed as former real estate agents should not be allowed to be rent review officers, because it is real estate companies who sell the developers' buildings to our landlords, therefore, the rent review officer has a bias in favour of the landlord and puts tenants at a disadvantage immediately.

Evening hearings should be granted to tenants upon a written request sent to the

rent review office. All directives concerning interpretation of the rent review program should be simplified and made available to the public. Rent review officers should supply to tenants a detailed calculation as to how they arrive at their decision. Thank you.

**Mr. Acting Chairman:** Thank you very much, Mrs. Kazor. I appreciate your comments and the positive suggestion you have made as to how the system could be improved.

**Mr. Williams:** Mrs. Kazor, the obvious position is that your association accepts no options to rent review, but rather that rent review in its present form be retained. I think that is apparent from your concluding remark. Is that correct?

**Mrs. Kazor:** No, I'm sorry, I didn't mean that. Our tenant association made up these recommendations, not in the present form because that is how we have been treated under the present form. That is what I was trying to say.

**Mr. Williams:** Let me put it this way, it is my understanding that you support the rent review concept although you would like to see some changes made in the administrative procedures.

**Mrs. Kazor:** In the way it is administered, yes.

**Mr. Williams:** Okay. So any of the other options outside of the present concept are not acceptable, as I understand it. There are options presented in the policy—

**Mrs. Kazor:** Are you talking about the paper?

**Mr. Williams:** Yes.

**Mrs. Kazor:** There are a lot of things in there I don't agree with either; other than what I spoke of in this brief tonight.

**Mr. Williams:** Subject to improvements to the administrative system, you stay with that. Right. Coming to the specific ways of improving the system as you cited them, there are just two of them that I would like to ask you about.

First, the second recommendation was one hearing a year per building. Is that really realistic, bearing in mind that people may move in during the 12-month period and it may be that they move in just after a hearing for the year has been completed under your proposal?

**Mrs. Kazor:** Yes, but every unit in that building goes to rent review; the whole property.

**Mr. Williams:** So you are saying you are covered by the blanket decision for the whole year.



**Mrs. Kazor:** That's right, and no matter how many tenants move in the one building the rent is there.

**Mr. Williams:** It is fixed for that period so they don't have to worry about it. I see. Okay, that clarifies that point.

The second was your third recommendation that there be a six per cent maximum increase allowed under any given circumstances. I gather you are not in favour of recognizing a cost passthrough concept or formula?

**Mrs. Kazor:** Not if the landlord has mortgaged the building to buy something somewhere else, no. I don't think that is right. In our case eight per cent was set first and then six per cent. I don't know of any landlord who has only asked for an eight or a six per cent increase. He is taking units to rent review constantly in our case.

**Mr. Williams:** Let me use an example. If we apply your recommendation of a six per cent maximum increase, and if it was demonstrated by some landlord somewhere that in fact the cost to him of operating and maintaining his facility with the rents that have been received had increased by say 9½ per cent, are you saying that notwithstanding that proven increased cost he should absorb the loss he would experience because of that and be held at six per cent?

**Mrs. Kazor:** No. I think what I am trying to say is that if it is a legitimate cost passthrough to the tenants because of high taxes, because of hydro rates and things like that, fine. But because his mortgage rates have gone up by remortgaging the building, or other business ventures he might use our building for, no, not that cost passthrough in there.

(Applause).

**Mr. Acting Chairman:** Ladies and gentlemen, I realize that you may be very much in favour of comments from time to time but it is our custom not to have applause. If you can restrain yourselves, it will allow us to proceed somewhat more quickly. I recognize that you are very interested and very much in favour of perhaps the comments being made and the answers being given, but try to restrain yourselves if you might.

**Interjection:** This is one method of expressing views in a parliamentary system.

(Applause).

**Mr. Acting Chairman:** Well, that may be available for the members of Parliament but not necessarily for our guests. Perhaps though it would allow us to move along a little more quickly.

**Mr. Williams:** Allowing for the situation where a landlord may use the mortgaging process as a means of inflating his expenses, let's use the legitimate situation where say, a landlord buys a building with an existing mortgage on it and he hasn't engaged in any refinancing. The mortgage is in place or it may have been a mortgage that he needed in order to accommodate the purchase. There's no way he could have bought the building without putting a mortgage on. So let's say it's a legitimate mortgage. Then in those circumstances, are you still saying that they should not be allowing those expenses, the principal and interest payments, as part of legitimate passthrough costs?

**Mrs. Kazor:** Not if it deals with the specific building in question, no.

**Mr. Williams:** But isn't the payment of mortgages, whether you're a home owner or an owner of a revenue-producing property one of the largest carrying costs that one has?

**Mrs. Kazor:** I know, that's why I don't have a home.

**Mr. Williams:** That's right, but by the same token, whether it's an owner of a six-plex who's renting out the six units or a large apartment owner, that is their largest carrying cost. So why would they be disallowed it if it's a legitimate mortgage carrying cost?

**Mrs. Kazor:** I'm not saying disallow it. If he needs a nine per cent or a 10 per cent or 16 per cent increase, and with us going to rent review, if that could be proven to us these are the facts, everything is out and tenants know, then fine, I don't say that landlords should lose money. I'm not saying that, no.

**Mr. Williams:** All right. That's really what I was getting at. If the landlord can show that his cost is greater than the six per cent maximum increase you're advocating, then it would be subject to those add-on costs if they can be proven as legitimate. Is that right?

**Mrs. Kazor:** That's right.

**Mr. Williams:** Okay. Thank you.

**Mr. Makarchuk:** Going back over your statement, I gather what you're saying is, "Tories make lousy rental officers." Is that correct?

(Applause.)

**Mr. Makarchuk:** Now that we've got that point settled, I'd like to hear your comments. What you were saying, and this is what Mr. Williams was saying, is that, you're prepared to accept legitimate passthrough costs, but what in effect has been happening in this

case is that the rent review officer refused to show you the costs and the reasons for them?

**Mrs. Kazor:** Yes. We haven't seen any proof, any bills whatsoever.

**Mr. Makarchuk:** No justification whatsoever for why the costs were there?

**Mrs. Kazor:** No. We had to trust him, he knew how to calculate it, we didn't understand it, we were only tenants.

**Mr. Makarchuk:** I see. It was a very paternalistic type of an operation. Okay. This was suggested by other tenants and again we're trying to resolve this: what are your feelings about the idea of having some kind of a tribunal that would be composed of landlord, tenant, possibly a neutral party, if there is such an animal, and they would be responsible with sorting out most of the problems, sorting out perhaps what are the passthrough costs, sorting out all the problems that can develop between a tenant and the landlord, in terms of relationship? What are your feelings or your association's feelings on this matter?

**Mrs. Kazor:** I believe the Federation of Metro Tenants made a submission on this, and we back the federation's standpoint wholeheartedly.

**Mr. Makarchuk:** Right. I see. So you would like to see something along this style. Now you mentioned in your presentation that there were in camera hearings. Didn't the rent review officer give you an idea of why the in camera hearings were held?

**Mrs. Kazor:** We had a lot of problems over that. The landlord requested it and we wrote to Mr. Robbins regarding that, and we got a letter back stating some reason for it was because of in camera hearings that were held when some newspaper union was striking or something back in 1970 or 1971. I don't even know what it was all about, but we received a letter and we in turn sent it to our lawyer that the tenant association has had from time to time, Mr. J. Wideman, and he wrote back and felt that those reasons were not justified.

[7:45]

**Mr. Makarchuk:** Okay.

**Mr. Duksza:** Mrs. Kazor, how many units are there in your apartment building?

**Mrs. Kazor:** Two hundred and fourteen.

**Mr. Duksza:** Two hundred and fourteen. What was the average increase granted in the last two years?

**Mrs. Kazor:** I guess it would run around 10 per cent.

**Mr. Duksza:** So you would be quite happy if we could stick to six per cent?

**Mrs. Kazor:** Yes. I don't like the idea of landlords using the six per cent as a bargaining point and sort of saying, "Well, six per cent isn't enough. It's increased operating costs. We have to go for more." I think they should have concrete proof as to why and the tenants should be satisfied.

**Mr. Duksza:** Do you feel that maybe six per cent itself is sometimes an unnecessary automatic increase given as a present to the landlords?

**Mrs. Kazor:** No. I don't think any increase should be automatic.

**Mr. Duksza:** That's what I'm saying. Do you think there should be a system other than an automatic six per cent allowance in terms of rent increase? What I'm asking is, should each landlord have to prove his costs have increased and should be passed through to the rent? And should there be no automatic yearly increase of six per cent?

**Mrs. Kazor:** Oh no. I think everything should be proven even if it's only six or four per cent. I think tenants have the right to know, because we the tenants are the ones living there who are keeping him in business.

**Mr. Duksza:** I also believe the books must be shown well prior to the hearings so the tenants can examine them just as much as landlords. I think your presentation was fine. There were many good points. I have no other questions.

**Mrs. Campbell:** I'd like to pursue the six per cent because I have been worried that the eight per cent and the six per cent have become a floor rather than a ceiling in most cases. But have you any idea how we could ensure that every case didn't go to a tribunal so that it would become clogged up and then the thing would be out of hand?

**Mrs. Kazor:** By having a landlord automatically file financial statements every year, and make them available to tenants who live in that building. Or if I'm going to move into another building I should know what I'm going into.

**Mrs. Campbell:** Yes. I'm sorry I didn't get all of your brief but the one-year review for a whole building has been before us before. But do you just produce your books, or do you apply for something? Do you see the landlord as applying for some kind of a rent increase? Or how would you proceed without having something in front of you?

**Mrs. Kazor:** Well, I am not saying a landlord should have to open his books once a year to the tenants or whatever but there



must be some way it can be organized within the present administration with all the people they have on staff. I'm sure, instead of telling tenants how stupid they are, they could be putting their efforts to a much better use.

**Mrs. Campbell:** Thank you.

**Mr. Acting Chairman:** Thank you very much, Mrs. Kazor. The next group the Crossways Tenants Association, Leonard Chilton is the spokesman I have down here.

**Mr. Chilton:** Mr. Chairman, members of the committee, good evening. The Crossways is a large mixed-use residential-commercial complex in West Toronto which approximately 1,500 people call home. Those of us who are interested in tenants' matters have watched with interest as the government of Ontario has made its intention to withdraw from rent control clear.

We would like to take this opportunity to urge the committee to recommend keeping the existing legislation and in fact updating it to reflect changes that have occurred over the past three years. The Crossways Tenants Association is a member of the larger Federation of Metro Tenants' Associations. As such, we would like to express our support for their brief.

Furthermore we would like to make three additional recommendations which are of special interest to us at the Crossways: 1. That rent review be extended to include all new and old rental units in the province except as noted in (2) below; 2. That all new rental units be exempt from rent review for a period of one year only during which time the owner can establish a fair rent. Subsequent to the first year, rent review shall prevail; 3. That the province adopt standards for construction, sanitation facilities and personal and shared space within the buildings.

It is our position that the removal of rent review will lead to a flurry of rental increases which will affect those who can least afford it. As the authors of the green paper noted, there are already too many people paying 25 per cent or more of their income for rental housing.

The large and uncontrolled increases that would inevitably follow the elimination of rent review would serve to make the position of many people that much more desperate. We would also suggest that those who can afford to migrate to the suburbs in search of less costly housing would leave behind them a most undesirable vacuum which could not be filled if rents rise much higher. Much has been written about the migration from the city core and its associated anomie.

Furthermore, high rents leads to a temporary community which views apartment living as a jumping off point prior to purchasing a home. Both of these conditions caused by high rents leads to a population which has little investment in the community. We feel we all agree that a live and vibrant city core is a most desirable situation. If rents are allowed to rise much further they will serve to drive people from the city and create a city without a heart.

In conclusion, we urge the committee and the government not to remove rent review and in fact to extend its applicability to newer buildings that are now excluded from the legislation. Those of us who are tenants will be the victims of large rent increases. We see the role of the government to regulate the cost of housing and to ensure the quality of that housing. Thank you.

**Mr. Acting Chairman:** Thank you.

**Mr. Epp:** Mr. Chairman, I have one question of Mr. Chilton. He has made the point that rent shouldn't exceed more than 25 per cent of a person's income and I may or may not agree with him. I would like him to explain, if a project can't operate on that basis, who does he think should subsidize the landlord? In other words, if the building is going to go under, if it is not a viable operation, if the person has hundreds of thousands of dollars or less than that invested in it and the limit of the rents is supposed to be 25 per cent of the tenants' income, where is the person supposed to get that money from?

**Mr. Chilton:** I would in turn ask you whether we are expected—

**Mr. Epp:** No, I'm asking the questions, pardon me.

**Mr. Chilton:** Okay.

**Mr. Duksza:** Oh, don't stand for that, ask the question.

**Mr. Chilton:** Okay.

**Interjection:** Are we in a court here? He has a right to ask you a question.

**Mr. Acting Chairman:** No, as a matter of fact, he really doesn't but let's try to carry on as best we can in the procedure. There is a question, perhaps it could be answered.

**Mr. Chilton:** I would suggest that we as tenants and citizens of Ontario are not responsible for the high prices of land and the high prices that the landlord has to pay for the building.

**Mr. Epp:** You are saying that there is no supply and demand principle in operation? In other words, if there are one or more people who want a lot of land it has no effect



on it. In other words, if there are a lot of people who want some land, usually that drives up the price. But you are saying that collectively you don't have any particular effect on the price of land and buildings?

**Mr. Chilton:** It's not really our fault that the demand has not been forecast properly. Does that answer your question?

**Mr. Epp:** No, it doesn't. I would like to get back to my question, Mr. Chairman. Where is the money supposed to come from? In other words, are you saying that the landlords are supposed to subsidize the tenants?

In other words, if it is not a viable operation, if they are going under—

Interjections.

**Mr. Acting Chairman:** Ladies and gentlemen, I would appreciate it if you kept to yourselves your comments and your views on the questions or answers so that we can all hear. It will be very difficult to conduct a meeting, as crowded as this is, so that everyone can hear, unless we all have each other's attention.

**Mr. McClellan:** Your colleague is being provocative, Mr. Chairman.

**Mr. Epp:** No, I'm just trying to get a point clarified because I think it is a very important point. Let's assume for the moment that you have a lot of retired people in the building. Their income is very low, and yet the building has to operate at a viable rate. In other words, they have to get a certain income; and he is saying it shouldn't exceed 25 per cent. I am saying where is that money supposed to come from? I think it is a very legitimate question. Are you expecting the government to subsidize these people so they can pay higher rents? Are you saying the landlords should operate at a deficit all the time, or what are you saying?

**Mr. Chilton:** Let me answer by adding to my first answer by saying that perhaps the government might get into land. It has seen fit to bank land out around the Pickering airport site. Why not for something more important like tenants and apartment buildings? That way the costs could be kept down.

**Mr. Duksza:** There are 1,500 people in the area, Mr. Chilton. How many apartments are there altogether?

**Mr. Chilton:** There are little over 1,100 apartments.

**Mr. Duksza:** You recently opened but you are still under the rent review legislation?

**Mr. Chilton:** No, we are not.

**Mr. Duksza:** That's the main thing I wanted to establish. When was your apartment opened?

**Mr. Chilton:** Curiously enough, the first resident took occupancy in February 1976.

**Mr. Duksza:** In your opinion, are the rents comparable to the apartment rents in that area?

**Mr. Chilton:** I don't really think we can compare the Crossways. It's like apples and oranges. The Crossways itself contained a shopping mall and what not downstairs. Obviously, you are going to pay more. But for the facilities, my own personal opinion is that it would be higher.

**Mr. Duksza:** Have there been significant increases since early 1976 or not?

**Mr. Chilton:** We have been blocked by the landlord in an attempt to take a survey of the building but we have had tenants coming to us and reporting increases of 40 per cent or zero.

**Mr. Duksza:** How many people have had this enormous increase?

**Mr. Chilton:** Ten or 20. One experience we had I got right from Mr. Shankman who happens to be the president of the corporation that owns it. He had an employee there who didn't last too long but the employee was putting in rent increases of 100 per cent and some people were staying there. The tenants had no recourse. We had two towers. He lost 60 per cent of one tower and then the rents went back down. But those people who left are out of luck.

[8:00]

**Mr. Duksza:** What kind of sample do you have? How many people have you talked to who have had unconscionably large increases?

**Mr. Chilton:** Personally, I know six.

**Mr. Duksza:** Have you tried to organize the building in order to get as many people as possible into your organization?

**Mr. Chilton:** We have done that. We have a little over 100 right now, which is very good for civic affairs. We have been blocked by the landlord.

**Mr. Duksza:** How did your landlord block you? In what sense has he been blocking you?

**Mr. Chilton:** I don't know if the committee is familiar with the Crossways.

**Mr. Duksza:** Yes, I do know it. It is just on the other side of my riding.

**Mr. Chilton:** It is zoned as a hotel, but they have got us all living in there as residents. Essentially, it is being occupied as an apartment but it is zoned as a hotel, so we

are involved with city negotiations at the moment. The owner has refused to recognize us and give any concessions to us at all. Our refrigerators are bar refrigerators. All of the paying guests, as it were, pay \$10 extra monthly for a stove and, something quite interesting, OHC has 80 units within the building.

**Mr. Duksza:** Do you know how much they are paying, by any chance? Have you talked to anyone from OHC?

**Mr. Chilton:** Essentially, the building we are concerned with contains a hostel unit with a bachelor. There is no bedroom per se. The OHC people are paying about \$180 and the free market is anywhere from \$240 up.

**Mr. Duksza:** Of those six, do you know how much they are paying for their one-bedroom or bachelor apartments? Do you say they are all bachelors?

**Mr. Chilton:** We have two towers. One has one-, two- and three-bedrooms with some bachelors. The other tower is essentially bachelors.

**Mr. Duksza:** Will you tell me how much they are paying on average for a bachelor?

**Mr. Chilton:** We are talking about \$240 on average. A one-bedroom is \$310 a month.

**Mr. Duksza:** One bedroom is \$310 a month. I hope this landlord never complains that he is not making a packet. Clearly he is crying all the way to the bank.

**Mr. Chilton:** He is laughing all the way to the bank.

**Mr. Duksza:** No. If you were here this afternoon, you would have said that they cried nonstop all the way to the bank.

**Mr. Acting Chairman:** Do you have a question?

**Mr. Duksza:** I like your suggestion. You are saying that this type of a building has been exempted because it was built in the last couple of years and that it should come in under the rent review legislation and, at the most, they should have a year off for making some money on the tenants.

**Mr. Chilton:** A year off for bad behaviour, as it were.

**Mr. Duksza:** Yes, good. Thank you.

**Mr. Samis:** I have just one question. Mr. Duksza referred to the succession of landlords we had here this afternoon. Their basic argument is that if you remove the rent controls, supply and demand will take care of things and prevent abuses.

I suspect I can guess the answer, but I would just be curious as to how you would

answer that argument, that it won't take care of things adequately.

**Mr. Chilton:** With specific reference to the Crossways, it happens to be on the subway line. A limited number of apartments are on the subway line. Many people who live in the city don't have cars and they need free and easy access to the city core to get to their jobs. In order to get an apartment unit close to the subway, they expect to pay a little more. That's it.

They have you between the rock and the hard place. If you want to live on the subway line and be able to be mobile, you have got to pay the higher rents.

**Mr. Samis:** If we just transfer the argument beyond your own apartment, what would be your general response to the argument that the developers especially try to use on us that supply and demand will redress any grievances?

**Mr. Chilton:** I don't think so because I think landlords, being rash capitalists, would try to get as much as they possibly could to pad themselves against future events.

**Mr. Makarchuk:** I will read you some excerpts from the brief that we received from HUDAC this afternoon. The first one says it is a market of virtually pure competition. Mr. Samis touched on that. Would you agree that it is a market of pure competition? In other words, you have unlimited choice to go where you want to and pay the rents you want to pay.

**Mr. Chilton:** In the framework of unlimited, no.

**Mr. Makarchuk:** Some of their other statements illustrate that the cost of rent, in comparison with home ownership, personal income and consumer price index, has indisputably been one of the prime bargains in the marketplace. Would you agree with that, that your rent is a real bargain today?

**Mr. Chilton:** An unqualified no.

**Mr. Makarchuk:** An unqualified no, okay. They say, "We point out that to date rent review has protected all tenants, the majority of whom earn incomes above the level justifying rent protection." What is your opinion on that statement? In other words, do you feel the majority of tenants really don't need rent protection?

**Mr. Chilton:** I think we answered that in the first question. I think the landlords will try to get away with as much as they possibly can, whether you earn \$8,000 or \$20,000 a year.

**Mr. Makarchuk:** The other is, "Only a small group of the total tenancies appear to



require assistance." Would you agree with that?

**Mr. Chilton:** My own personal conviction is anything over 25 per cent of your take-home income should be assisted.

**Mr. Williams:** I would just like to round out, if I could, the figures you had with regard to the rents. I understand your building is not subject to rent review because of the date of completion and occupation, is that correct?

**Mr. Chilton:** That is correct.

**Mr. Williams:** I understand you to say that a one-bedroom was renting at \$310?

**Mr. Chilton:** Yes.

**Mr. Williams:** Could you give us the figures again, for the record, for the bachelor and for the two- and three-bedrooms?

**Mr. Chilton:** The average on the bachelor is \$240 and they vary in area from 250 to 300 feet. The average area is 280 feet which is extremely small. The two-bedroom I am not too sure on. The three-bedroom in tower A that I am familiar with goes for \$450 a month.

**Mr. Williams:** Four hundred and fifty dollars for the three-bedrooms?

**Mr. Chilton:** Yes.

**Mr. Williams:** And the two-bedroom, we don't know. Okay. Have you had any association or connection with any other tenants who live in buildings that have been built recently enough to be free of the rent review controls, and if so, what are the comparative rentals for similar accommodation? Do you have any information you could give us to assist the committee?

**Mr. Chilton:** No, I don't. I believe there is one more new building here tonight to represent itself.

**Mr. Williams:** They will, perhaps, be able to give us some comparative costs to your experience.

**Mr. McClellan:** I just have one question. I want, by the way, to thank you for the very good presentation and some very good suggestions. What length of lease has your benevolent landlord been granting you there? What is the maximum or what is the range?

**Mr. Chilton:** They are very interested. You go down there, and the automatic first year is one year. After that, you are given the option of one or whatever you want. Obviously, they try to push you for as much as possible.

**Mr. McClellan:** Is there a price differential between a one-year or an extended lease?

**Mr. Chilton:** Two or more years is negotiable, but, you know, you will get a very small fish.

**Mr. McClellan:** There isn't any standard rate, then, it is totally negotiable?

**Mr. Chilton:** Well, you won't get very much off your standard rent, maybe five per cent at the most.

**Mr. McClellan:** What is the longest lease he has been prepared to give, do you know?

**Mr. Chilton:** I can't speak from experience. We don't know of too many people who have stayed too long in the building.

**Mr. McClellan:** I can understand that. What are the dates of leases beyond one year that you are aware of? Are you aware of any specific terms of any leases?

**Mr. Chilton:** I am aware of none. When we negotiated with the president of the corporation, he specifically mentioned to me he was very interested in signing me for a longer period of time.

**Mrs. Campbell:** How long have you been in this building yourself?

**Mr. Chilton:** I just signed for my second year.

**Mrs. Campbell:** Have you any experience as to how the rents have been running by way of increases each year?

**Mr. Chilton:** Throughout the building?

**Mrs. Campbell:** Yes.

**Mr. Chilton:** No, there is no way—we attempted to get some sort of idea but there's a 60 per cent turnover in that building yearly to begin with, and the management has attempted to block us in any other attempts. We've asked them for co-operation, and they won't help us at all. We've gone door-to-door, and unfortunately because it's a secure building it seems that people aren't too willing to answer their doors. We've had quite a bit of luck, though.

**Mrs. Campbell:** What apartment do you have, a one-bedroom?

**Mr. Chilton:** My apartment is quite unique. It's a large one. That's why we took it. But it's essentially an illegal unit because of city housing standards. The window is very tiny for a very large living room, so we're going back to the air shafts of the depression days. Anyway, we like it because all units come with built-in air conditioners. We're paying \$260, plus \$10 a month for a stove, plus \$20 a month for parking.

**Mrs. Campbell:** Was that what you were paying when you went in, or has there been an increase to bring it to \$280?



**Mr. Chilton:** Quite frankly, I don't think they would dare hand me an increase, and they've offered me a second year at the same price. We've been luckier than most, ranging from zero per cent in my case, to 40 per cent in the six I've heard of.

**Mr. Acting Chairman:** If there are no other questions then, thank you very much, Mr. Chilton, for the comments you have made.

Our next group is the Weston Square Tenants Association. Dan Rose is the name that I have. Is Mr. Rose here?

**Mr. de Klerk:** Mr. Chairman, Mr. Rose is not here. My name is Jack de Klerk. I'm chairman of the Federation of Metro Tenants' Associations, and he asked me if I would present this brief on his behalf.

**Mr. Acting Chairman:** Please go ahead.

**Mr. de Klerk:** I do have a couple of copies for members of the committee.

**Mrs. Campbell:** Not even three?

**Mr. de Klerk:** I don't know if I have enough for all members. I'm just giving them indiscriminately. The Weston Square Tenants Association is a group of tenants in the Weston Square Apartments and Marketplace situated at 31 and 35 King Street in Weston, just slightly north of Lawrence Avenue West, directly off of Weston Road. It's a complex containing more than 400 residential units, a fairly large enclosed shopping mall, as well as space leased out for professional offices.

Because the discussed real estate was only in the final stages of construction during late 1975, with the first tenancy taking place on January 1, 1976, there was a point of contention which was dealt with in our appearances before the rent review officer in the borough of York in December 1977—at the time leases were in the renewal stages—and at a subsequent appeal hearing before the rent review board of Ontario.

The hearings were precipitated by the tenants because they were made aware of the fact that at least one tenant in the apartment complex had moved in prior to January, 1976. So the tenants believed that they were subject to rent review. In fact, the tenant had moved in subject to a clause in the lease which said that he could move in earlier than the date of his lease. The date of his lease was January 1, 1976. Unfortunately, the board found that since the tenant had not slept there, he hadn't moved in, although all his belongings were in the apartment.

**Mrs. Campbell:** Lord, how did they ascertain that?

**Mr. de Klerk:** He admitted it.

**Mr. Acting Chairman:** It may be they asked him.

**Mr. de Klerk:** Consequently, the tenants of Weston Square Apartments and Marketplace are now looking forward to rent increases anywhere from, on the average, 12 per cent over their previous lease to, in some cases, as high as 22 per cent. This situation is forcing many would-be permanent and otherwise good tenants to vacate at the expiration of their leases to rent in buildings affording a lower living standard and a lower rent, or to retreat to the suburbs away from the general employment areas of the city and Metropolitan Toronto.

[8:15]

I'm speaking for the tenants' association, and we have had an opportunity of reading the brief presented earlier by the Crossways Tenants Association and who, like ourselves, are not subject to rent control of any kind. We concur wholeheartedly with all of the points raised therein, specifically with items one, two and three following paragraph two, and then restated in summary fashion in the closing paragraph of the discussed brief: Newer buildings need and want rent controls.

Also, we would like to promote the suggestion that it become mandatory for leasing of residential and commercial units to take place via a standard form residential or commercial lease, devised in conjunction with the Landlord and Tenant Act. This would eliminate many of the outdated and some times illegal clauses contained in the various leases now in existence.

Lastly, they would like to support the brief presented by the Federation of Metro Tenants' Associations on April 19.

**Mr. Acting Chairman:** Fine. Thank you, Mr. de Klerk.

Are there any questions that you would have at this point or should they be directed to Mr. Rose? Would you be able to answer them?

**Mr. de Klerk:** I represented them so I think I could.

**Mr. Williams:** Mr. de Klerk, following along with the previous presentation, being an apartment building also free and clear of rent control because of its newness, I think it would be helpful to the committee if we had again some comparative rental costs. That would assist the committee in assessing what rents are in uncontrolled buildings as contrasted to those that are subject to rent review.

I am wondering if you might have average rental costs for the bachelor, one-, two- and

three-bedroom apartments, if they exist in this complex, as compared to the previous.

**Mr. de Klerk:** I don't have those with me. I do know though that—

**Mr. Williams:** Could they be obtained and furnished to the committee?

**Mr. de Klerk:** I believe they could be, yes.

**Mr. Williams:** I think it would be helpful to us if we had that information.

**Mr. de Klerk:** I think the more important fact in here is the rent increases that the tenants are experiencing. Under rent review the landlord, one would think, wouldn't be able to justify 22 per cent, but here he is getting away with it. The fact that the rents may or may not be comparable with what other rents were in the area simply speaks to the historical situation, but the rent increases the landlord is asking for outside of the controls really shows the difference between the controlled building and the uncontrolled building.

**Mr. Williams:** I think that is really what is relevant to our discussions; what those rates are compared to what they are in a controlled situation. That's why I think the information would be helpful to us. If you can obtain that information and file it with the secretary of the committee it would be useful.

**Mr. de Klerk:** I will speak to them about that.

**Mr. Makarchuk:** I am asking this as a matter of opinion—I realize you can't provide exact figures—but in your opinion the initial rents that were in the building, were they the rents that were sort of related to the neighbourhood, or do you feel they were the rents that possibly would cover the costs to maintain the building? These are the operating costs, plus the mortgages, the payments et cetera. Could you give any opinion on that?

**Mr. de Klerk:** I am somewhat familiar with the area of Lawrence and Weston Road and I know there are a number of older buildings, I'd say between five to 15 years old, along Weston Road. I know the rents there are substantially lower than the rents in 31 and 35 King Street. So as far as the market in that area is concerned, I would say these rents are substantially higher than those of the area.

We haven't been able to see the landlord's costs because it was deemed by the rent review board or the program, both actually, that it wasn't subject to rent review, so we obviously haven't had any means of forcing the landlord to show his books. I would just

guess though from experience elsewhere that in setting the rents he has done as most other businessmen have and said, "I figure I am probably going to lose money on this operation in the first year or two or three and then just bet on inflation that the costs are going to go up," and that he is then going to be able to increase his rents by more than his costs are going up. Then in conjunction with everything else he can begin to make his profit. The tenants are paying for his mortgage costs and all that.

**Mr. Makarchuk:** The second one is also a matter of opinion. If the rent controls then are dropped—this is an example; it's perhaps a microcosm of the whole rent structure but the fact is you have rent increases from 12 to 22 per cent—in your opinion can the same things exist if rent controls were dropped on other buildings then?

**Mr. de Klerk:** I would suggest in other areas they would go up more than the 12 to 22 per cent. I think in that particular area, because the landlord is having difficulty keeping that place rented, he can't increase it more. In that particular area the market rents, the comparable rents in the area are much lower, so that he can't increase it by more than 22 per cent—as if 22 per cent weren't high enough.

I think in other areas of the city where the locations are, I suppose, more prime the increases would be much in excess of 25 per cent.

**Mrs. Campbell:** I really have two points. I take it that when you say the tenants are facing rent increases, in fact some of them have already experienced increases of between 12 and 22 per cent. Is that correct?

**Mr. de Klerk:** That's my understanding. Through the course of 1976 tenants were moved in and I think that towards the end of 1976 or in early 1977 the building had full occupancy, whatever that means. Ever since then they have been coming off their one-year leases and so the first tenant who moved into the building as of January 1 has had two increases since then. He doesn't live there any more but—

**Mrs. Campbell:** He hasn't had two increases in that building anyway if he doesn't live there any more.

**Mr. de Klerk:** But that unit has been increased at least twice.

**Mrs. Campbell:** The other thing is—and I do think it does have some bearing on the beginning rents—do you think that it is appropriate to compare a building which is, say, 15 years old with a building which was



built when this one was? Would the costs of building not be higher at the time?

**Mr. de Klerk:** Probably they would.

**Mrs. Campbell:** Just to get the thing in focus, it seems to me that—

**Mr. de Klerk:** I think generally speaking you can say yes, the costs—

**Mrs. Campbell:** Originally.

**Mr. de Klerk:** —in 1963 were lower than they are today. But in this particular situation the tenants were attracted to the apartments because of the fact there was going to be a shopping mall and all of these facilities around there. I think the shopping mall was finally opened two or three months ago. So for well over a year and a half they were paying rents that were established on the basis that all these facilities would be there and they weren't there. They weren't available to the tenants. I think that that is the kind of thing that has to be considered as well.

Certainly some of the people who moved in at first were living with construction going on around them. And these people are paying again, you know, \$300 or \$400 per month for their apartments, depending on the size. When you've got that sort of thing going on around you you are not getting value for your dollar.

**Mrs. Campbell:** Are you saying that you think that the rents would be comparable to the figures given by Crossways, because you've mentioned now a figure of about \$300 a month? Does that mean that you can in fact give us some comparisons?

**Mr. de Klerk:** Certainly the tenants are in a position to provide that information.

**Mrs. Campbell:** Yes. But the fact that you referred to it, I thought perhaps you—

**Mr. de Klerk:** I actually know specifically of only one apartment because I have had a lot to do with that particular tenant and that was the tenant who went to rent review, so I've seen his lease and that sort of thing and I know when he moved in it was almost \$300 at that point.

**Mrs. Campbell:** What type of apartment?

**Mr. de Klerk:** I believe that was a one-bedroom apartment.

**Mrs. Campbell:** About \$300?

**Mr. de Klerk:** I believe it was in that area, yes. That was as of January 1976. So even if you add 10 per cent to that you are up to \$360.

**Mrs. Campbell:** According to the HUDAC brief this afternoon, if you had a one-bedroom and you paid \$250, which in Metropolitan To-

ronto would be \$75 more, you would be in a luxury suite. You should be exempt.

**Mr. de Klerk:** If you were paying \$325 for a one-bedroom apartment in Toronto, you'd have a luxury suite?

**Mrs. Campbell:** Yes.

**Mr. de Klerk:** I would say that says a lot more about the credibility of HUDAC's report and some of their statistics.

**Mrs. Campbell:** It struck me as a little strange.

**Mr. Duksza:** Do you know how many apartment buildings there are in Metro, from your position as being involved with the Metro association of tenants, which are not now under the rent review programme?

**Mr. de Klerk:** No, I don't. I really haven't got much of an idea at all. I would say there aren't that many as a percentage of all of them, because there hasn't been much construction in the last few years of new high rise apartments. What construction there has been, I think, has been primarily of condominiums, townhouses or rowhouses, that sort of thing. I don't think there are that many highrise apartments that aren't subject to rent review.

**Mr. Duksza:** Of course, one of the obvious things that came to mind when Mr. Chilton from Crossways was talking is, why doesn't everyone just move out and find another apartment? But, of course, if a vacancy rate is nonexistent, then, in effect, you are locked into this.

**Mr. de Klerk:** Mr. Duksza, if I could just interrupt you, even if there were a five per cent vacancy rate—

**Mr. Duksza:** There's less, isn't there?

**Mr. de Klerk:** Well, it's much less. It's below one per cent. Even if there were a five per cent vacancy rate, why should tenants have to be told, "If you don't like it, move"?

**Mr. Duksza:** No, I accept that. I agree with you. The point is, if there is less than one per cent vacancy, it is physically impossible to find an apartment, so you're stuck paying this rather large, uncontrolled rent. There is no choice in terms of a free market. A free market only operates for the landlords.

**Mr. de Klerk:** I'm not so sure that—

**Mr. Duksza:** All you can say is yes, I think, to that question.

**Mr. de Klerk:** The reason I hesitate is because I'm not so sure that there is such a thing as a free market. I'm not so sure that prior to rent review coming in, the free market, whatever it is, was working. This



is what I think the landlords would have us believe, that prior to or without rent review, the free market would bring us heaven on earth. That would lead us to conclude that prior to 1975, we had heaven on earth. We didn't. We had the situation that brought about the controls. If they're saying get rid of the controls for us and then everything is going to work out, I say there is no historical reason to believe that.

**Mr. Makarchuk:** You don't believe HUDAC when they say it is a market of virtually pure competition?

**Mr. Duksza:** Has anybody tried to tell me that? Oh yes!

**Mr. Makarchuk:** May I ask Mr. de Klerk a question? I wonder, is your experience fairly well limited to Toronto or have you got knowledge of outside of Metro Toronto?

**Mr. de Klerk:** Well, in our office in our association, we receive calls primarily from Metropolitan Toronto and some of the border areas, such as Oakville, Mississauga, Brampton, Bramalea and sometimes out to Oshawa. We do receive correspondence, from time to time, from people outside as well. Certainly, the bulk of my experience deals with Metropolitan Toronto.

**Mr. Makarchuk:** So you really couldn't comment too much on the problems that they have outside of Toronto—in Kingston or Ottawa or whatever.

**Mrs. Campbell:** Or Kitchener-Waterloo or Hamilton.

**Mr. de Klerk:** Well, I'm not familiar with the kinds of problems they have.

**Mr. Makarchuk:** The vacancy rate in Hamilton, I think, is about six per cent and in Kitchener-Waterloo, as Mrs. Campbell mentioned, is about six per cent. Ottawa, I think, is about three or four, or whatever it is.

**Mr. de Klerk:** Well, I think Ottawa is lower than that. I think Ottawa is less than one per cent as well. The only comment I have about that kind of situation is that my understanding of Hamilton at least, and maybe some of the other areas as well, is rent review is as busy there as it is in Metropolitan Toronto and landlords are asking for increases there in spite of the vacancy rates. So, you know, again I think that leads us to questioning the premise of the landlord's position. That is, if there's a high vacancy then everything's going to be okay. Or even if there's no rent review, everything's going to be okay. I just don't see what they found that belief on.

[8:30]

**Mr. Duksza:** Do you remember Mrs. Carpenter was asking for increases and the removal of rent review program because of the high vacancy? She had a 50 per cent vacancy in her building, so she thought she could recoup by having high rents for some.

**Mrs. Campbell:** I don't really think that was her position. But she certainly felt that where you had a 16.7 per cent vacancy rate it wasn't needed. I think that was true. But this trouble we're having with Hamilton, I can tell you right now runs right through the piece—that with a high vacancy rate they still are having no drop in rents—no material ones anyway.

**An hon. member:** Same in Sudbury.

**Mr. de Klerk:** I think the other thing to look at, for some indication of what could happen if there was a high vacancy rate, is the commercial sector. I think that in Metropolitan Toronto right now there is a high vacancy in commercial and professional office space. But certainly the rents aren't going down. I know our rent for the office that we're paying for is going up more than 10 per cent a year and this is supposedly cheap office space.

**Mr. Acting Chairman:** Thank you very much, Mr. de Klerk. The next group is the Eglinton Tenants Association. Is that group represented with any particular comments to make? Do I have the name of the group correct?

**Mrs. Gardner:** Mr. Chairman, my name is Mrs. Gardner. I'm from 21 Mayfair Avenue. We came here as a large group, 10 buildings from the Eglinton-Bathurst area. The addresses are 740, 800, 840 Eglinton, 650 Eglinton, 10 Shallmar, 11 Shallmar, 15 Shallmar, 21 Mayfair, 515 and 525 Chaplin—have I left anybody out? We have several spokesmen. I'm speaking only for 21 Mayfair Avenue, and there'll be other people speaking for some of the other buildings.

**Mr. Acting Chairman:** Would you like to make your comments then, Mrs. Gardner, with respect to the operation of rent control?

**Mrs. Gardner:** Yes, I will, thank you. Mr. Chairman, members of the committee, our building is located at 21 Mayfair Avenue in the Bathurst-Eglinton area. It is a highrise, with 138 rental units. The tenants of 21 Mayfair Avenue firmly believe that rent review must be continued. We believe it must be improved to give tenants greater protection from rent increases that they cannot afford.

We are able to see that if a rent of, say, \$300 a month is increased by six year per

cent annually, at the end of five years it will have risen to \$401 a month. This example is well on the modest side for our building, where the rent for a two-bedroom apartment is much more than \$300 now. There are many elderly people in our apartment who are on fixed incomes, as you can see by the people wearing "Apartments are Homes" buttons. They are all from our area. It is apparent that they face impoverishment if rents continue to rise even at a rate of six per cent annually—a fine reward for those people who have worked to make this country wealthy.

Of course it is not only the elderly who face these hardships. Those on modest or low incomes cannot go on paying annual increases of six per cent without suffering a reduction in the standard of living. Decent housing is an affordable cost. It is surely everyone's right. A proper rent control or rent review law is essential to make this right a reality.

We wish to make these additional points: We believe the Rent Review Act should be amended so it becomes mandatory to submit to rent review any request for rent increase regardless of the amount of the increase.

The rent review process is far too complicated for tenants to cope with easily. The number of forms that must be filled out, the deadlines to be observed, the procedures to be taken bewilder most tenants. Imagine having to fill out a nullification application form. It is a bureaucrat's dream and a tenant's nightmare. The complexities of the act discourage tenants from using it. Again, a special hardship is placed on the elderly, who do not have the energy to cope with all that paperwork and, for the most part, don't understand what to do with it all or where to take it.

Tenants should be given help in interpreting cost revenue statements, because most of them are not accountants and do not understand them. Luckily, the Metro Tenants Federation helped us in preparing and in presenting our case at the rent review hearings, but they are not equipped to handle every single request.

Our experience also underlines the need for landlords to be required to file their financial information at least two weeks in advance before the rent review hearings, and also to be required to file supporting documents.

The act should require that all the leases in one building expire at the same time. In our building the leases expire at two different times. This meant in the first year of the act

we had two hearings within a couple of months of each other. This placed an extra and unnecessary burden on those of us who were helping the tenants to present their case. Obviously, it has also meant that a taxpayer had to pay for two hearings instead of one—a waste of money. A single expiry date would reduce the cost of administering rent review.

Finally, in general we support the brief of the Rent Review Act and the Landlord and Tenant Act submitted by the Federation of Metro Tenants' Associations. I want you all to know that tenants, like people who live in homes, love their homes even though the homes are apartments. From now on many more of us will have to make our homes in apartments, and we demand the same respect that home owners have.

**Mr. Acting Chairman:** Thank you, Mrs. Gardner.

**Mr. Williams:** I just have two questions, Mrs. Gardner. One, you indicated there is quite a large group here from the Eglinton tenants, the Mayfair tenants and the Shallmar tenants.

**Mrs. Gardner:** Right.

**Mr. Williams:** You gave the municipal addresses of all the buildings. Are they all owned by one landlord?

**Mrs. Gardner:** No.

**Mr. Williams:** They are separate and different owners?

**Mrs. Gardner:** Two of the buildings are owned by one landlord, and then two more are owned by the same, but our building is actually owned by an absentee landlord who lives in Germany. He owns 21 Mayfair, 10 Shallmar and 11 Shallmar, I believe—the three buildings.

**Mr. Williams:** Geographically you are all right in the same area?

**Mrs. Gardner:** Right, they are all in the same area.

**Mr. Williams:** I just want to be clear on the one observation you made. You indicated or suggested in one of your positive recommendations, a uniform expiry date for all leases?

**Mrs. Gardner:** Right.

**Mr. Williams:** Are you not really advocating that which was proposed by Mrs. Kazor in the first submission this evening, that there be one hearing a year per building? Isn't that really what you are getting at?

**Mrs. Gardner:** Yes. I didn't hear Mrs. Kazor's report. I am sorry. We were a little



late. But that is really what we want, one hearing per building per year.

**Mr. Williams:** That is really what you are getting at. I think it is unrealistic to have one cutoff date for one lease, because it could be signed at any time.

**Mrs. Gardner:** Yes, just one hearing per building.

**Mr. Williams:** I just want to be clear on that point. That is all I have.

**Mr. Makarchuk:** How would you resolve the problem? We are discussing this one hearing for all the apartment units in the building. How would you resolve the problem between the tenants where some tenants have perhaps a lower rent and their rent may increase, whereas the people who have the higher rent probably will remain stationary? There may be a problem that way. How would you resolve that problem—at least, I foresee a problem?

**Mrs. Gardner:** That hasn't happened in our experience.

**Mr. Makarchuk:** No, I know, but if you have one hearing, say if somebody's paying \$200 and they get six per cent and somebody else is paying say, \$300 for the same size apartment unit. One would get \$12 increase; the other one would get \$18 increase.

**Mrs. Gardner:** Let me tell you that is a problem because of the way the rents are now. If a tenant came into a building he got a certain rent, right? Another tenant who came in a year or two after that got another rent. Well now, under the rent review, we have terrible problems in the buildings because people don't see why someone else in the same unit is paying less rent than they are.

Of course we can't do anything about that because there's no room, under the present Landlord and Tenant Act or the rent review act, to be able to handle that kind of problem.

**Mr. Makarchuk:** So over a period of time you would be in favour of the rents more or less moving to a similar amount for similar apartments.

**Mrs. Gardner:** Equalization, yes; the same rents for the same apartments. Right, we certainly do endorse that.

**Mr. Duszta:** I was struck by one suggestion you made, that maybe the committee should consider that there should be no basic six per cent increase allowable per year. Historically, of course, two years ago when we started this fight it was eight per cent. One of the things that occurred in bargaining just to introduce the rent review legislation

was that people agreed that they would have a yearly increase. I tend to agree with you, that I think maybe we have moved now to recognize that housing is a social need and that no one should be allowed to make money on that more than is absolutely just, and that only the actual maintenance and repair costs should be passed through to the tenant. And, of course, there should be no passing through of all that refinancing which has now been allowed under the act. Are you in agreement?

**Mrs. Gardner:** Yes, I am. As a matter of fact the next speaker will be one who will be speaking on that passthrough you are now referring to. As a matter of fact when we organized some of the people into these associations I often had elderly people come to me and say, "You know, I cannot pay another cent more in rent without taking it out of my food." There are a lot of elderly people who live in our area who just cannot pay another penny more in rent.

**Mr. Duszta:** From the increases you have heard of and the rent review hearings that people you know have gone through, what have been the average increases allowed by rent review?

**Mrs. Gardner:** In our own building they haven't been all that bad compared with other buildings. The first time they asked us for a 16 per cent increase; they got 10 per cent, and the next year they got eight, and now this year they're getting six per cent, so you can add it up. In the three years, 10, eight and six is, what—24 per cent in three years, something like that?

In some of the buildings along the street, they asked for 20 per cent and Mr. Fink, who is here, has been acting as legal counsel for some of the people in our area and has represented buildings where they have asked for 40 per cent and have got 20, but he will talk about that himself. That is the kind of problem we have in our area. My own building is not one of the really extreme cases, but some of the others are. People from the other buildings have been asked for 20, 30 and 40 per cent and the landlords have got 20 per cent and more; you will hear from them next and they will tell their own story.

**Mr. Duszta:** To me, the financial pass-through is the biggest loophole in the act, because in effect it allows capital accumulation at the expense of the tenants.

**Mrs. Gardner:** That's right and especially in our area. There are a lot of fine old buildings in Forest Hill that people are buying up now with the idea of forcing out the tenants and increasing their revenue. That is a real



tragedy there and something that has to be looked at.

**Mrs. Campbell:** You were speaking about the older people in your building and the fact they didn't feel they could pay any more.

**Mrs. Gardner:** That's right.

**Mrs. Campbell:** Are any of those in the situation where their rent is lower than others?

[8:45]

**Mrs. Gardner:** Basically the rents are about the same. Some apartments are maybe \$20 or \$30 more than others, but by and large they are just all very high. When you are paying \$300 a month for a two-bedroom apartment or \$250 a month for one bedroom—actually a one-bedroom in our building is now \$280—that's a lot of money for a person on a fixed income.

**Mrs. Campbell:** Yes, it is.

**Mrs. Gardner:** I mean, they can't make it without help.

**Mrs. Campbell:** Have you talked at all to any of those who, even under your plan, would be increased to bring them up to the norm of the building?

**Mr. Duksza:** Or the others could get a decrease.

**Mrs. Campbell:** Well, sure, whatever. I think the statement, as I understood it, was they would like to see the others brought up. I'm sure they would love to see them all go down. If, in fact, you had some who were paying quite a low rent compared—

**Mrs. Gardner:** We don't have anybody paying quite a low rent.

**Mrs. Campbell:** No. But there are discrepancies.

**Mrs. Gardner:** There are very small discrepancies, but not to the extent that it is going to change the overall picture at all. The situation is that people in our area are generally older people on fixed incomes. They cannot pay any more rent, period. I mean that is the situation. Without actually depriving themselves of food, they can't pay any more rent. In fact, there are people on our floor whose rents are paid by their sons and daughters because they are absolutely unable to pay it. My next door neighbour, whose husband has been dead for 15 years, has been living on her savings, and she's at the point now where her sons are paying for her apartment rent because her money is gone. That is quite typical of people in our area.

**Mrs. Campbell:** One of the problems I ran into before rent review was that it was that

age group that seemed to be preyed upon, at least in the north area.

**Mrs. Gardner:** Right.

**Mrs. Campbell:** They used the increased rents to make them leave the building because they couldn't pay anything more.

**Mrs. Gardner:** People in our area are middle class people. I mean, they have worked hard and they have saved and they hope to retire in a nice area and take a trip to Florida in the winter, which some of them do. Now with inflation, and these increased rents, they have really become impoverished. I mean, they have become poor people. The middle class has become poor people because they cannot afford the standard of living they had worked for and saved for and hoped to enjoy in their years of retirement. I think it is a crime that people who have worked all their lives to be able to take a trip to Florida are now unable to do that.

**Mr. Acting Chairman:** Thank you, Mrs. Gardner: We have with us Richard Fink of the 740 Eglinton Tenants Association. Mr. Fink, could we hear from you please?

**Mr. Fink:** Thank you, members of the committee. I am a solicitor practising law in the city of Toronto. A great deal of my practice involves representing tenants' associations before rent review, before the county court and before their members of Parliament.

When I first attended law school, the landlord and tenant law was tacked on to first-year property courses and given about 10 minutes of the lecturer's time. I am told by my girl friend, who is presently in second year, that they have a full-term course on landlord and tenant law because the law continues to expand. I think the reason it has expanded is because of the decline of people's real income due to the economic problems this country is facing at the present moment, and that the landlords' past prerogative of being able to raise rents whenever they so deemed has had to end.

However, the tenants I am representing are now facing what I would call two schemes, to avoid rent review. It is a very serious situation, because one can see the kind of increases in rent people would face if rent review were to end and secondly, the law is being, if not flouted, at least gotten around. I would like to dwell on these two schemes.

The first scheme is where a landlord buys a building and then attempts to convert the building into what is called a co-operative corporate condominium, and I will explain what that is. That is when you sell shares in a corporation under the securities legislation,

if you can imagine landlord and tenant law governed by the Securities Act. You sell shares in a corporation. You then give occupancy agreements to those people who buy shares and a building which you bought for half a million dollars can then be given out in little pieces at maybe \$100,000 a unit. You can make a nice tidy profit of several millions of dollars.

However, there is one thing that stands in the way of landlords who try to do that, and that is a tenants' association that decides to fight.

One of the landlords figures he would go to the committee of adjustment and ask that he could divide up air. Unfortunately for him, Alderman Johnson and about 50 tenants showed up. The committee of adjustment was quite hostile to him, and the application was withdrawn. He then figured out that his best scheme was to get the tenants out of the building. Then he could go back to the committee of adjustment and reapply. His methods to get rid of the tenants were such things as removing the locks from all the exits and entrance doors, and removing the washing and drying machines. Finally, the severest blow of all to anybody who wanted to watch the hockey game, he removed the cable television and left no antenna on top of the building.

His Honour Judge O'Connell had to remind the solicitor for this landlord that we live in a humane society. I would suggest to the ladies and gentlemen present here today that if rent controls are removed, this society will be nasty, brutish and short for those people who are living in rented accommodations.

Fortunately, Judge O'Connell, the courts and the rule of law have prevailed and the cable television, locks and washing machines have been restored. We are not finished with that case yet.

The second scheme is that whereby a landlord buys a building that has a value on paper—that is mortgages, et cetera—of approximately \$500,000. It has a rental income that provides a very tidy income for that half million dollars investment of, say, a 15 per cent rate of return on the paper value of that apartment. He buys that apartment for twice its old value. In other words, instead of paying half a million or even \$600,000 for that apartment, he pays \$1 million. The rents in no way justify \$1 million of his investment in that apartment. The effect of that is that he has to raise the rents by 50 per cent in order not to sustain a financial loss.

The person who sits very pretty in this situation is the old landlord, because he has just made a half million dollars, right off the top. Generally what happens is that the second landlord, the new landlord, does not pay one penny, not even legal costs, because they cover that by their new mortgage as well. They don't pay one cent for the new apartment. They simply take out a large mortgage paid back to the first landlord, so the first landlord has a guaranteed income for life, without the hassle. The second landlord is then free to go to rent review and ask that the costs be passed through.

What I would suggest to this committee is that what is required is some legislation to tighten up this situation. I've been informed by the Attorney General that there are some guidelines in existence that allow these financial losses to be amortized over five years. I would say that in a scheme such as the one I have outlined, possibly the loss should be amortized over 10 years. That should be put into the legislation so that the landlords would be discouraged from doing this.

In the apartment building I represented at 740 Eglinton Avenue West, the landlord was granted an increase of 23.4 per cent, based on one of these schemes I have just outlined, and the loss was amortized over three years. I would state that the rent review officer used his discretion in the wrong way. If he would have amortized it for at least five years, it would have lowered that increase to less than 23 per cent. If the rent review legislation or the regulations were modified and he amortized the loss over 10 years, then possibly those tenants may have only faced a 10 or a 12 per cent increase, which is still large but at least it's not outrageous.

Another problem I have with rent review and the landlord and tenant legislation is its administration. I don't believe landlord and tenant law should be enforced in the county court in chambers. The judges there are forced to deal with criminal law one week and civil proceedings the next. Landlords and tenants are always tacked on after change of names, et cetera.

I was before a judge this morning and, quite frankly, I did not feel that he had the patience to deal with the case. There were just too many cases in front of him. We had to go bang, bang, bang. I know how to deal with judges who are impatient. Unfortunately, my friend on the other side did not and she got severely hammered by the judge because her cross-examination was not professional as she was not a lawyer. I feel that the county

court is no place to enforce the landlord and tenant law.

The second problem with the present enforcement relates to rent review, that is, the rent review officers. Never in my legal experience, which now ranges over 13 months, plus when I was a student, have I met a group of adjudicators more incompetent than the rent review officers. I have appeared before immigration tribunals and the Workmen's Compensation Board, which is no great shakes either, but rent review officers are the worst. They cannot see a non-arm's-length transaction when it hits them between the eyes. They don't know what an argument as to jurisdiction is.

Finally, they don't understand what capitalism is. The committee might ask me why I say they don't understand what capitalism is. It is because when I asked the rent review officer to investigate a non-arm's-length transaction, he gave me a 10-minute lecture on capitalism and the free enterprise system. Unfortunately, I have heard better explanations of capitalism in my first year of political science course at U of T by an engineering student than I was given that night by that rent review officer.

What I would suggest in the way of administering both the rent review and the Landlord and Tenant Act is a tribunal similar in scope to that which the Ontario Labour Relations Board has, where people are given an appointment and are treated in a fair manner by the board and where there is a representative of the landlord, the tenant and the government. One of the advantages of such a situation would be that if there were inadequacies in law or there were large disputes in the law or there were something that landlords' representatives or tenants' representatives wanted to bring to people's attention, then they could write minority reports, and the Legislature could deal with the situation much more easily.

The second reason I would suggest for the establishment of a board such as this would be that if members of this committee are defeated in the next election they might get appointed to such a board and would have further employment. That is my submission.

**Mrs. Campbell:** I realize we can't all of us question you, but I would like to deal with the matter of the tribunal as you have proposed and as almost everybody has proposed, landlord and tenant. It is one place we seem to be agreed to a degree.

What would you do about appeals from that tribunal? You have talked about the impatience of the county court judges. What

would you do; would you provide for appeals? Where would we go from there?

**Mr. Fink:** We are into administrative problems—

**Mrs. Campbell:** No, I don't think it's just that. I think there is a principle involved in the question of how you really do ensure that the law—I am not talking about the facts, but the law—is administered properly. There should surely in matters of law be a right of appeal, wouldn't you say?

**Mr. Fink:** At the present time, errors of law are appealable from the labour relations board to the divisional court.

**Mrs. Campbell:** That's right, but you wouldn't want that for landlord and tenant surely.

[9:00]

**Mr. Fink:** The problem is that once you start to play administrative games and you start to see errors of law, unless you want to cut out people's right to bring appeals—which is very dangerous because you are going to give the administrative body a free hand—you are in to going before the courts, which are always the final administrators on what the law is.

**Mrs. Campbell:** That's right.

**Mr. Fink:** I would state that in my experience, one of my greatest difficulties in dealing with the Workmen's Compensation Board is that past decisions of the divisional court have seemed to have given them a free hand. I would state that that legislation and any proposed landlord and tenant legislation should allow tenants, on errors of law or gross injustices based on the facts, to go to a further tribunal and preferably bring a lawyer. I would say preferably being a lawyer, but I am sure my tenants would not, because they are intimidated by the courts. But at least some final move to the courts should be allowed on an appeal. It would be divisional court, I suppose.

**Mrs. Campbell:** You would go to a divisional court?

**Mr. Fink:** I would go to it. The problem is, I represented a landlord, believe it or not, today. She and he only had one tenant. They were living in a house, their house, and the tenant was really a nuisance. After the case, the landlord went up to me and asked me in Portuguese—I speak Portuguese—"What did he say?" He meant the judge. He's totally confused by the process in the courts. The problem with appealing all these things to the divisional court is people are lost and it's expensive.



Unfortunately when you are dealing with areas where an administrative tribunal must decide on the questions of law at times, there must be route of appeal. I can't see any appeal other than to divisional court. The present rent review officers have been appealed to the divisional court and it has set them straight on a certain occasion as to a tenants' rights, particularly the right of a tenant to proper notice. If there was no appeal to divisional court from the present rent review legislation, people would still not be getting proper notice. The case was Devitt and Sawchyn; Sawchyn being the rent review officer, Devitt being the tenant.

**Mr. Ziembra:** I'm interested in these non-arm's-length transactions and what your experience has been with them. If they are straight phoney deals, how are these landlords getting around the realty speculation tax that they would have to pay if they were paying, say \$1.5 million for a \$500,000 property? That would be about \$200,000 in speculation tax. Have you any experience in that? Are they getting away with that as well?

**Mr. Fink:** I didn't call them phoney deals, but what I did call them is schemes. They are not phoney deals under the legislation you have mentioned because you have a buyer and a seller who are two separate entities. In other words, it's not one corporate entity selling to another corporate entity which are both related. It's two corporate entities.

But you can see that I could, if I had a few thousand dollars capital, buy one of the apartments that my tenants live in and simply take out the mortgage financing.

I would call it a non-arm's-length transaction because the old landlord is a little too close to the situation. He's making a little too much profit. He's taking a little too much advantage of a situation for the good of the tenants, but they are still two different entities. In other words, the old landlord and the new landlord are two different entities. But that old landlord never disappears from the picture because, for instance, if the second landlord goes bankrupt, the first landlord is right back into the picture again. He forecloses on the mortgage and has lost absolutely nothing.

The whole definition of non-arm's-length transaction would have to be changed for these purposes, because the legal definition of non-arm's-length transaction is when it's not a member of your family. You can't pull a corporate veil over the situation. But a non-arm's-length transaction in these cases would have to be a situation where firstly,

whether the scheme was exploitive of the tenants. In other words, there was such a large increase, say 50 or 60 per cent, that it would obviously look like a scheme. Secondly, it would depend whether or not the old landlord was still in the picture in some way, either as a member of the new corporation that was the landlord or still holding the mortgage.

**Mr. Ziembra:** My second question then is just something—

**Mr. Acting Chairman:** Mike, please, Mr. Ziembra, so that you can make sure you're recorded.

**Mr. Ziembra:** I am sorry.

**Mrs. Campbell:** You are recorded for posterity.

**Mr. Ziembra:** I found this astounding. About two weeks ago, I saw an ad in the legal section where an apartment building on Eglinton close to Bathurst was in bankruptcy. Are you familiar with that situation?

**Mr. Fink:** No, I haven't heard anything.

**Mr. Ziembra:** What sort of scheme is involved there? I can't imagine any landlord going bankrupt these days.

**Mr. Fink:** The landlord who previously owned 740 Eglinton Avenue West defaulted on his mortgage. A company that owned the apartment building sold it to another company of which the directors were the same. That new company then sold the building for \$1.1 million to a landlord. That landlord never got around to going to rent review properly to scalp the tenants. He then defaulted because he couldn't keep up the mortgage payments. A new landlord has now taken over that building.

A landlord did actually default on the same building, the one where they removed the locks and everything else.

**Mr. Ziembra:** Oh, I see. Fine. Thank you.

**Mr. Duksza:** There's one point bothering me. You were suggesting that one way of dealing with the financial passthrough was to spread it over a period of 10 years, 10 years' amortization. I wasn't clear whether you were suggesting this was the best way of doing it, or whether you are accepting that there should be no financial passthrough when there is a remortgaging or refinancing of the building.

**Mr. Fink:** I was making that suggestion because it is something I believe the committee could pass as being a compromise between those people who would allow no financial flowthrough, and those members of the committee who would allow the present financial flowthrough. Personally, I think in landlord

and tenant law—and this is a comment—there almost has to be two laws, one for small landlords and one for large landlords. For the large landlords, I would not allow any capital flowthrough because they do quite well in the present situation, and they can still sell their buildings, in my estimation, for a profit. They can still make a profit after they pay more for a building than a landlord did, say, five years ago. For the small home owner, however, possibly the situation would be different.

My own personal opinion—not the submission I made to the committee originally—is that I would not allow any financial flowthrough for these landlords unless it was simply a very modest flowthrough. On a \$500,000 building if he then paid \$510,000 and had to pass \$10,000 through or \$20,000 or \$30,000 or maybe five per cent, I would allow it. Maybe five per cent would be the maximum allowable financial flowthrough. The tenants could pick that up with an additional one per cent increase. The situation we're facing is 30 or 40 or 50 per cent increases, which is really quite different.

**Mr. Duksza:** Clearly, Mr. Fink is a man of total veracity and truthfulness as he represents both landlords and tenants. All his suggestions must be listened to by the committee with great care.

**Mr. Fink:** Thank you very much.

**Mr. Samis:** Let me say that's a hard act to follow. Just one question. You were quite critical of the quality and competence of the rent review officers. In fact, I think you even suggested that they were below the level of some of the people at the Workmen's Compensation Board.

**Mr. Fink:** That's a real achievement.

**Mr. Samis:** Yes, that's quite an achievement. Can I just ask what your suggestion or view would be? Short of stopping the appointments of Tory incompetents and hacks, where do you think they should be recruited from and on what basis should they be hired?

**Mr. Fink:** Somebody behind me said there should be more women and I would certainly be all in favour of that. If you're going to keep the present rent review system, or you're going to have to appoint government representatives to act as chairmen of landlord and tenant panels or rent review panels or whatever, I would stay away from political appointees, of course. You have to find the people in the general community. You have to find people who are capable of coping with the situation. I suppose you would want to stay away from people who represented solely landlords in the past, such as large

real estate agents or accountants or what not. You would try to stay away from people who worked with the Federation of Metro Tenants Associations because they solely represent tenants.

Whoever you pick, you're going to pick people with biases. A person who lives in an apartment building is going to be, I would suppose, more sympathetic to the tenants' cause than somebody who lives in a private home and has no relation to people living in apartment buildings. The criterion is simply you have to interview and look at the person's background and see whether or not they are going to be fair. I would suggest that even somebody from the Metro federation of tenants would be fair, but I'm sure the landlords would scream bloody murder if they found out that somebody like that was appointed, or if somebody like me was appointed.

**Mr. Samis:** So you'd leave it on a fairly subjective basis then?

**Mr. Fink:** I can't see any criterion for appointing—it's like appointing a judge; you look for somebody who is going to be fair, who has been honourable in his past dealings and who doesn't have a vested interest.

**Mr. Samis:** Supposedly.

**Mr. Fink:** Or a past Tory MP.

**Mr. Samis:** Or an unsuccessful candidate. Thank you, Mr. Chairman.

**Mr. Acting Chairman:** Do you have a question? Mr. MacBeth has a question, if you'd like to return, Mr. Fink.

**Mr. MacBeth:** It wasn't a question, Mr. Chairman; it was just a comment. I, for one, resent some of the remarks and the questions that were asked. The people who are administering the landlord and tenant rental controls may not be the most experienced and competent, but they are trying to do a difficult job. Every time they come down with a decision that maybe the tenants don't appreciate does not mean that they're dishonest or corrupt people, as has been suggested tonight.

**Mrs. Campbell:** I don't think there was any implication of that.

**Mr. MacBeth:** I think there was, Mrs. Campbell, and I simply want it to go on record that those people are doing the best job in administering a very difficult piece of legislation. I am simply speaking up on their behalf, Mr. Chairman. I think somebody needed to say that.

**Mr. Fink:** I never implicated them as being dishonest in any way. There is a large



difference between incompetent and being dishonest. You can be honestly incompetent.

**Mr. MacBeth:** It is very fine for Mr. Fink to play to the audience tonight. He knows the audience he's playing to. It is much more difficult for me to make an unpopular remark, but I think that in all of this we must try to remember to be fair. I'm just telling you that all of these people are not incompetent.

**Interjection:** Okay, Bill Davis.

**Mr. MacBeth:** That's a compliment.

**Mr. Makarchuk:** Mr. Chairman, on that point: I think the first presentation was not a matter of competence or incompetence. As was pointed out in the first presentation this evening; it is a matter of the review officer being paternalistic; he treats the tenants with disdain and so forth. These are matters that should be considered. These are matters that are of concern to the committee. This is the evidence that was presented here tonight. I think we have to realize it's there and accept it.

**Mr. Acting Chairman:** We'll now move on to the next presentation. Mr. Bennett from 10 Shallmar Tenants' Association. Is that correct?

**Mr. S. L. Bennett:** Yes, that's correct.

**Mr. Acting Chairman:** Please make your comments, Mr. Bennett.

**Mr. S. L. Bennett:** My name is S. L. Bennett. Ladies and gentlemen of the standing committee on general government, I have the pleasure of submitting herewith our brief.

I am here representing the 10 Shallmar Tenants' Association, affiliated with the Federation of Metro Tenants' Associations. Our organization is composed of over 100 paid-up members; that is, tenants of this apartment building, which has a total of 138 suites.

This organization was formed about three years ago as a result of the landlord or the landlord's agents advising tenants of increases in the rental of their apartments. The increases were pegged up to 30 per cent. This was about the time that the Residential Premises Rent Review Act, 1975, came into effect. We, therefore, formed this association to protest these increases, which were in excess of what the law allowed.

We appeared collectively before the rent review board officer to appeal and protest these increases. The results of the various applications were upheld despite the fact that the evidence produced was completely contrary to the landlord's claim. These decisions were subsequently appealed before

the rent review board and in all cases, with the exception of a few who were late in filing their appeal, the decisions were reversed by the appeal board, and in many cases the rental structure was rolled back to the 1975-76 level. In not one case was the requested increase allowed.

[9:15]

We now come to our reasons for suggesting why some proper and fair controls must be continued by the provincial government, you. We have about 80 to 90 tenants who have resided at this address from three to 15 years and have made considerable investments in their apartments, such as blinds and drapes for all windows, and in many cases, broadloom throughout, such as livingroom, diningroom, bedroom, et cetera, which originally cost anywhere from \$3,000 to \$7,000. These tenants are in no position to move to cheaper premises.

Prior to 1975, all apartments were painted every second year. This practice has been discontinued, along with washing of windows, which had previously been done two to three times each year, and now has been reduced to once a year.

Generally speaking, the maintenance expenses have been reduced. Further, most important of all, most of the tenants, not only of our building but also several other buildings adjoining ours, are over 65 years of age and during their early years were either employees or owners of small businesses, who were able to put aside some funds for their retirement. Very few had private pension plans, since this was not very popular in those years. Even those who did have pensions, today find that these pensions are very insignificant and have not kept up with today's inflation, so that most of these people live on limited incomes and must budget themselves.

They are the people who can least afford to pay the high rents which would probably prevail in the event that rent controls are eliminated. Furthermore, these people could conceivably become wards of the provincial government and the federal government, and in the event that they could not make ends meet the government would be called upon to give them supplementary allowance and some could be forced to go onto welfare. Further, we feel that these same people are entitled to live out their remaining years in dignity. Therefore, it behoves government to protect these tenants as much as possible and maintain these fair rental controls, which should be administrated preferably by a committee of three, representing the landlord, tenant and impartial chairman, which



has been endorsed by the Metro tenants association's brief. I thank you for your indulgence.

(Applause.)

**Mr. Acting Chairman:** Thank you very much, Mr. Bennett. Are there any questions of Mr. Bennett which committee members have? Mr. Duksza.

**Mr. Duksza:** I have one question, Mr. Bennett. You are making a good point that housing is a social need and not only are you talking of senior citizens, who are most obviously affected, but clearly it affects many segments of our people in all of Ontario and I thank you for your presentation.

**Mr. S. L. Bennett:** Can I add to that, sir?

**Mr. Duksza:** Yes, go ahead.

**Mr. S. L. Bennett:** May I say that I have been on top of this for three years. I have other interests in life besides, and I'm blessed with my wife. The mere fact is that I do not go to sleep at night until I've had four or five or six or seven calls. I have several of the tenants right here in this room who are afraid to go to sleep at night because they've been harassed to no end with statements, a knock on the door by the superintendent and "Why don't you pay the extra increase in rents?"

Now there's no need for that. Sure we have an absentee landlord, but we are respectable people, we've paid our taxes, we've lived in Toronto for a long, long time, we've made it what it is, but we didn't look for a lot of these things here to go over our head. It's ridiculous and it's a shameful thing here in a civilized city, that this thing should prevail.

**Mr. Acting Chairman:** Thank you very much for your comments, Mr. Bennett.

**Mr. S. L. Bennett:** Thank you.

**Mr. Acting Chairman:** We have Dorothy Russell of the 50 Graydon Hall Association.

**Mrs. Russell:** Yes sir. There were numerous revisions in the text I intended to present tonight, so the corrected copies aren't ready for you.

**Mr. Acting Chairman:** I realize that the evening is drawing on, but we're about half way through the groups that wish to speak before us tonight. I appreciate your attendance, and I realize it's difficult and perhaps a bit uncomfortable for you, but we are at about the half-way mark so I hope we'll be able to continue as well as we have so far. Mrs. Russell.

**Mrs. Russell:** Okay. My name is Dorothy Russell and I'm chairman of the 50 Graydon

Hall Tenants Association. We are in an adult highrise building in Don Mills, at Don Mills Road and Highway 401. We have approximately 290 units. I didn't count the ones on the bottom floor. Our area is high density, middle class. Up the street we have two other buildings of a similar size owned by the same landlord, next door we have another building of about the same size owned by a different landlord. Across the street we have a highrise condominium.

Our tenants association is affiliated with the Federation of Metro Tenants Associations. Our association fully supports the position of the federation with regard to rent review and the Landlord and Tenant Act. We urge the government to continue rent review and tenant protection, most assuredly in no weaker form than exists at this time.

We are a fledgling, albeit determined, association that came into being as of April of this year, primarily because 91 apartments in our building, which is about one third at this point, were served with notices of rent increases. These proposed increases were to go into effect between April and June of this year. The rent increase being requested is a 30 per cent increase over what is now being paid. To give an example, in a two-bedroom apartment presently paying \$234 a month rent—that's not including parking, that's rent—this is a \$70 a month increase to \$304 monthly, an \$840 a year increase in rent.

Our landlord claims that this proposed increase is "reasonable"—that is his exact word—in view of rising costs of operation. We believe that a 30 per cent increase, in a middle-class, high-density area such as ours is not only unreasonable but ridiculous. There will be a rent review hearing regarding this on June 6 of this year.

Our three buildings owned by the same landlord, 50, 100 and 150 Graydon Hall, were sold to 373041 Ontario Limited, that's our landlord, as of January 1, 1978.

**Mrs. Campbell:** I hope it was posted.

**Mrs. Russell:** We believe that in this proposed increase the landlord is asking us to help pay for his real estate investment for him. Future rent review or landlord-tenant legislation should spell out the legalities and debatable points on such an issue. We realize we are not alone in being expected to help a landlord cover costs of buying a building. It's his investment and if he resells it, are we expected to help pay for the same building a second or a third time?

The members of our association cannot see an increase in service or upkeep within our building that would warrant as large an in-

crease as is requested. Here is a partial list of individual grievances:

In our entry way, the list of apartments and their respective tenants has not been updated for a year. It's not much, but it's annoying if you buzz penthouse 2 to find out that that tenant has been gone 10 months.

Assigned parking spaces are totally chaotic. Some of our tenants even have to park at another building across the street, and others find their spaces suddenly assigned to someone else as well as themselves.

When I first moved in, in September of 1976, curtains were provided on all windows in all apartments. I understand they are no longer included in an apartment when it is rented. I understand from another member of our association that when she moved in, five or six years ago, curtains were not only provided but were cleaned free of charge. These are two discontinued services.

There is no longer a party room available for tenant use in our building, as there was when we rented our apartment, and our annual washing of windows awkward for tenants to reach—and there are many on this building—was skipped this year. We also have add on ventilation fans in all hallways which no longer operate, a filthy underground garage that hasn't been power-swept in at least a year, outside parking areas that are not ploughed in the winter and frequent shortages of hot water.

It may be argued that the lack or discontinuation of some of these services was the fault of our previous landlord, but if tenant money has already been paid for these services that weren't provided, why should we pay an extra increase on top of that in the hopes that they may be provided in the future?

Our landlord has been busy on one project, though: the rental office, which was formerly adjacent to the entry way, has been moved and this area has been remodelled into a sitting area with beautiful white shag carpeting and plush chairs. It's nice. It can be seen by any person entering the apartment building to inquire about an apartment. However, it's kept locked so that the tenants cannot use it or soil it.

I'm glad some of our money is being put to such productive use. It is evident to all that rent increases have not been par with basic pay increases. We tenants find ourselves in a free-enterprise system where everyone can, with hard work, supposedly get ahead. We find that as we get gradual increases in our incomes, they're gobbled up in rent and we have no hope of ever getting ahead.

With the vacancy rate of apartments as low as it is now in this city there is no real freedom of choice in apartment living. There's simply not enough supply to make free choice of accommodation possible. One takes what one can get.

Also, apartment dwellers I don't believe are as transient as they once were. They had a reputation for that. Once considered a last resort, apartments are more attractive for assorted reasons: costs of buying a home; business mobility making house upkeep an unreasonable drain on free time when home; less emphasis on children in marriage, among other reasons. These people, once established in their own apartment, are unwilling to pull up stakes and move to another.

Besides the unwillingness for this change, where would one go? Discounting the cost of moving in itself, the move would have to be to a less expensive apartment, assuming affordability was the key problem and I believe it is, perhaps farther from the job and inconvenient to services. If people have to move to these other buildings due to rent problems elsewhere in town, how long will it be until these other buildings catch up?

Basically, what I'm asking is that the government continue and improve rent review, which was a great idea in the first place. We believe that adjustments should be made to hear maintenance services and upkeep grievances along with proposed rent increases in a rent review situation. The two are too closely intertwined to be treated separately. Until there are more apartments to choose from, and landlords as a whole are more open and responsive with their tenants, we need government protection and government help.

We at 50 Graydon Hall urge this committee to adopt the ideas and principles stated by the Federation of Metro Tenants' Associations.

**Mr. Acting Chairman:** Thank you very much. Are there particular questions of Mrs. Russell? Mr. Makarchuk.

**Mr. Makarchuk:** Yes. You mentioned yours is a middle-class area or apartment building. I want to quote from HUDAC brief and it says: "Not every rental market consumer can afford home ownership but a large segment can afford it." Would you like to comment? Do you feel that a large segment of your people, your middle-class group, which is probably above the average tenant in earning ability, can afford homes?

**Mrs. Campbell:** I wish we would discuss middle income rather than middle class.

**Mr. Makarchuk:** All right, middle income.

Mrs. Russell: Okay. Are we discussing the price of homes in the city of Toronto?

Mr. Makarchuk: No, but do you feel that a large segment of the people in your apartment building can afford homes?

Mrs. Russell: I really do not believe those who want homes could save enough money to put down a decent down payment.

Mr. Makarchuk: So basically they cannot afford it then?

Mrs. Russell: I would say that, yes. Short of writing their lives away.

Mr. Williams: I'd just like some clarification. You said 91 of the apartment units were under appeal. Or that notices of rent increases have been served?

Mrs. Russell: Yes, at this time.

Mr. Williams: Are they all two bedroom?

Mrs. Russell: No, sir, they're various sizes.

Mr. Williams: What are the range of apartments in your building?

Mrs. Russell: One, two and three bedroom.

Mr. Williams: No bachelor?

Mrs. Russell: No.

Mr. Williams: I see. Do you know what the asked-for increase is for the one and three bedroom?

Mrs. Russell: They're all 30 per cent. A one bedroom down the hall from me, for instance, is being asked for an extra \$60 a month.

Mr. Williams: What is the present average rental rate for the one bedroom to your knowledge?

Mrs. Russell: We're trying to establish that at this time. We're circulating a questionnaire with a lot of very determined people. The two-bedroom rent I quoted was \$234, I would say that was either average or a little low, I'm not sure. The one bedroom, I believe, is in the range of the \$215 to \$225. [9:30]

Mr. Williams: Three bedroom?

Mrs. Russell: I have no idea.

Mr. Williams: When's the hearing coming up though?

Mrs. Russell: June 6.

Mr. Williams: June 6. How frequent have the requested increases been in 50 Graydon Hall, or have you been there too recently to know what the history is?

Mrs. Russell: I've been there since September 1976. All increases have been within the guidelines; they have not asked for more.

Mr. Williams: Other than this?

Mrs. Russell: Other than this one. But this is a new landlord.

Mr. Williams: When did the ownership turn hands?

Mrs. Russell: January 1.

Mr. Williams: I see, okay, thank you.

Mr. Duszta: Did you say the average increase now requested on rents is 30 per cent?

Mrs. Russell: That is the increase requested. That's not the average increase, that's the increase requested for 91.

Mr. Duszta. Requested for 91. Because of the particular clause in the rent review legislation that the landlord, who is the new landlord, can indeed claim part of the financing as a passthrough cost, you're going to have a real fight on your hands until the law is significantly changed to not allow this capital accumulation or legalized robbery by people who simply buy into apartments. Mr. Makarchuk quotes from this document, the HUDAC Ontario Landlord and Tenant Protection, I suggest that everyone read it. It's a book along the lines of Odyssey, almost total mythology, without a free-enterprise system. But don't underestimate the power of that group in terms of persuading a number of people that the rent review legislation and rent control should be decontrolled suddenly and completely almost without qualifications.

Mrs. Campbell: Could I ask one question? Just about your rent review hearing, on the date of June 6?

Mrs. Russell: Yes.

Mrs. Campbell: Could you tell me what time of day that is, and where it is?

Mrs. Russell: I certainly can. Since we are an adult building, we're all working people, there are no children in our building, as far as we know, except for the superintendent's. He has several. But it's 2 o'clock in the afternoon.

Mrs. Campbell: Where?

Mrs. Russell: On a Tuesday. North York—

Mrs. Campbell: Is it anywhere near—

Mrs. Russell: It's on Yonge Street. We're at Leslie Street, and it's on Yonge, around Sheppard, I think, 5090, I believe.

Mrs. Campbell: Have you made any request to have the time changed so that the tenants can actually appear at something that is significant to them?

Mrs. Russell: We haven't made a request for a time change. We will be represented there by the federation and several tenants, myself included, have the day off, and will be representing—



**Mrs. Campbell:** You don't work for the government, do you?

**Mrs. Russell:** No, I work for a bank.

**Mr. Duksza:** Mr. Chairman, I just want to say a couple of things as a number of people are leaving. This has been a long and interesting meeting, but maybe some statement of what we're doing here is essential, just in the couple of seconds that you've allotted me. One, I think those who are here should know the committee must make a decision on the green paper to decide whether the rent review legislation will continue, what kind of legislation will continue, and what kind of protection tenants will have, if any at all. The decision of this committee is very important. There are three parties in it, and clearly the pressure of everyone is on their own members or members of the committee to express your view that rent protection is very essential. Once this committee makes a decision, it goes to the Legislature, and it is then up to the government to pick it up or not. So although it seems like a lengthy, elaborate, and often useless hearing, it is very important. I want everyone to remember that political pressure has to be maintained to make sure that your needs are met and the committee responds appropriately. In the committee there is a group which is uncertain and at least one party, the NDP which is committed. May I make a political statement? A commercial?

**Mr. Acting Chairman:** You already have.

**Mrs. Campbell:** You already have.

**Mr. Duksza:** The NDP is committed to continue with and improve the rent review. We are now investigating the possibility that maybe we should not even have a basic six per cent increase, but perhaps it should be on a completely different level. I've made my commercial on that point of view. The party is committed to continue with the legislation. It's up to everyone else to put appropriate pressure on their members and others so that rent control continues, because we're still not certain how some other people on the committee will react.

**Mr. Acting Chairman:** Following the commercial, we will take a break for a few moments in order to allow Mrs. Gardner and the group that came by bus to leave—I believe their bus is ready. We thank them very much for attending. We'll take a five minute break and then return.

The committee recessed for five minutes.

On resumption:

**Mr. Acting Chairman:** Ladies and gentlemen, if you would please take your seats we will be able to complete our hearings. Now, please. We have several more groups that have asked to appear before us. First of all I will call the two names we had at the start of the evening in case they are here now. Francois Jeanjean of Ottawa. The second name we had was Moses Siriboe of the 200 Chalkfarm Tenants Association. Please, Mr. Siriboe if you would like to come to the lectern and give us the benefit of the views of your association on the subject before us.

**Mr. Duksza:** Mr. Chairman, before we recognize Mr. Siriboe I would like to place a motion now or later between the hearings. I would like to make a motion to set up another evening hearing for the committee in view of the tremendous response we have had to the evening meetings.

**Mr. Acting Chairman:** I would accept the motion at this point. We should hear from the clerk. Have there been any other groups we have not been able to accommodate that have requested a hearing that you are aware of?

**Clerk of the Committee:** As far as I am aware we have fitted everyone in, but I have had one or two requests tonight.

**Mr. Acting Chairman:** We have had a couple of requests this evening.

**Mr. Duksza:** I had a couple of requests too. So if we do have a date the people will probably come out. I think we do learn something new each time in terms of improving the legislation, a new wrinkle, and we haven't been exactly hearing a repetition of anything.

**Mr. Acting Chairman:** The committee has now had two evenings particularly because that is the more convenient time for tenants' groups and we do want to hear from as many as possible. I remind the committee that we have committed next Wednesday, the 17th because of travel. Then the committee has to deal with landlord and tenant matters as distinct from rent control matters. I would presume the only practical evening would be Wednesday, May 24, if the committee is so minded.

[9:45]

**Mr. Duksza:** That date would give us not only the remnants of the people who want to speak on the rent review, but also some of the people who want to speak on landlord and tenant and cannot come during the day and who would insist on coming at night.

**Mr. Acting Chairman:** I'm certainly in your hands, as you are aware.

**Mrs. Campbell:** I'm worried about this aspect of it because we do have the landlord and tenant submissions which we have separated in this committee. I certainly think we should have evening meetings. That's not a problem. I would like some clarification as to when we start hearing the landlord and tenant submissions, in view of the fact that we have to report to the House and we have to have some time to pull it together.

I am not opposed to the motion, but I would like some clarification.

**Mr. Acting Chairman:** You will recall, Mrs. Campbell, that we will be starting at 8 o'clock that morning and having hearings all day.

**Mrs. Campbell:** We're not starting at 8 o'clock.

**Mr. Acting Chairman:** No, but we are committed to begin our review work at 8 that morning; and to sit until 9 or 10 that evening. That would make it a long day, but that's entirely up to the members of the committee.

**Mrs. Campbell:** It's not a matter of the long day. I'm trying to make the point when do we start dealing with the landlord and tenant matters that are a separate issue?

**Mr. Acting Chairman:** I am only in the chair for this evening. I don't know what our chairman's thoughts on that particular point are or his plans. I can't really help you on that because I don't know.

**Mrs. Campbell:** We may have the same number of groups wanting to make submissions on that issue. It has been indicated already that there are several who have spoken on this who now want to speak on landlord and tenant, and should. I just think we ought to know where we're going.

**Mr. Duksza:** If I modify it to say that one evening session should be able to deal with both landlord and tenant and the remaining rent review presentation, that probably would answer your objections. I would suggest the night of May 24.

**Mr. Acting Chairman:** I'm in your hands. It's entirely up to the members. We want to make it convenient for as many members of the public as possible to come before us and bring their comments on this most important subject. If the members of the committee wish to commit themselves to a further evening to deal with the several groups that we know of at least and also those with particular land-

lord and tenant interests, certainly that is up to the committee to decide.

**Mrs. Campbell:** I presume that's what we will be doing—me in Sudbury and somebody in Ottawa. We'll be dealing with both.

**Mr. Acting Chairman:** We would be doing that in the four groups for whoever happens to come with whatever particular point that person wishes to make.

I have Mr. Duksza's motion to plan to sit on the evening of Wednesday, May 24, from 7 o'clock for groups that may be interested.

**Mrs. Campbell:** In both aspects.

**Mr. Acting Chairman:** In both aspects, yes, of course.

Motion agreed to.

**Mr. Acting Chairman:** The committee will therefore be available to meet with interested delegations on the evening of May 24, and we appreciate the support we're getting as we try to go through this rather difficult problem.

Well, Mr. Siriboe, I'm sorry to have kept you. On behalf of the 200 Chalkfarm Tenants Association, would you like to give us your comments?

**Mr. Siriboe:** Mr. Chairman, members of the committee, I represent the tenants association of 200 Chalkfarm Drive which is situated in the Jane and Wilson area. I have a short brief to present to the committee. We are affiliated to the Federation of Metro Tenants' Associations.

Last year our landlord put up the rent over \$50. We presented our case to the rent review board, they had a hearing on that case and there was a cut in the rent. It was not what the tenants were expecting: it was cut down to 15.94 per cent. But this year, the rent went up again by \$50 for two bedrooms and \$60 for three bedrooms. There was a hearing just last month by the rent review board and they cut it down to 5.99 per cent which the landlord has repealed. Of course, we're waiting for the answer from the rent review board.

We support the continuation of the rent review board because the tenants in the building are of the lower income group. At the same time, there have been a lot of problems for the tenants and the landlord in respect of maintenance and also rent increases, as I'm saying, because last year the landlord put the rent up \$47. Now, the problem here is that we really don't know if the rent review is going to elapse at the end of the year, as has been said by the government. If this is really true, it means the rent is going to keep going up and there's no way that the tenants could afford to pay the rent.



There's also another problem we would like to bring to the committee. Every time we have to sign a new lease, the landlord requires every tenant to bring a letter from his or her employer stating how much he is making, and—

**Mrs. Campbell:** What?

**Mr. Siriboe:** Yes, that is true.

**Mrs. Campbell:** It's a limited dividend then?

**Mr. Siriboe:** Yes. But we are made to believe that this building is not subsidized by the government. In this case, it is supposed to be a low-income group rent. Now, even if you try to bring the letter from your employer, the landlord doesn't look into the aspect of how much you are making or if you are allowed to live there or not; he still tries to put the rent up. And talking about maintenance, there have been a lot of complaints by the tenants that the landlord doesn't look into the maintenance of the building.

At the same time, there have been a lot of complaints of break-ins, which is loose security in the area or in the premises. The landlord tells everybody that he is not responsible if your car is broken into or if anything happens to your personal effects. Of course the tenants are paying to have their personal effects put on the property of the landlord. We pay \$10 a month for parking, for instance, and there are so many other things we pay for, especially the community centre.

When people first moved into the building they were told that the community centre was included or that a community centre would be provided for the tenants. The community centre was not ready for two years, which was last year actually; the building is now four years old. But the landlord is now asking the tenants to pay for the community centre which, in our view, is not fair because it's included in the first lease or the contract which says that there's going to be a community centre provided to the tenants.

We would like to make this submission to the committee, that we have heard from the Federation of Metro Tenants' Associations that if rent review is dropped not many people will be able to live in Toronto. Where they will live, I don't know.

We are also trying to state that the tenants are people. They are the people, who help the government be what it is, because we vote them into Parliament and at the same time if the government is not looking into the affairs of the tenant, we might as well give up every hope that we have for the

government. So I really don't have much of a brief, Mr. Chairman; that is what I have.

**Mr. Acting Chairman:** Fine. Thank you, Mr. Siriboe. Are there any questions?

**Mr. Duksza:** It was refreshing to hear a direct political threat expressed so ably, and with such power behind you.

**Mr. Acting Chairman:** I think that's the second one we have heard this evening.

**Mr. McClellan:** Hopefully, not the last.

**Mr. Acting Chairman:** Probably not. Thank you very much, Mr. Siriboe.

We have other groups with us. Margaret Gittens of the Barbara Apartments Tenants Association.

**Mr. Pigadas:** My name is George Pigadas and I am speaking instead of Margaret Gittens.

**Mr. Acting Chairman:** Thank you, Mr. Pigadas. Would you use the microphone then and let us have your comments? I understand that this is a limited-dividend project.

**Mr. Pigadas:** Yes, it is.

**Mr. Acting Chairman:** Thank you.

**Mr. Pigadas:** Mr. Chairman, and members of this committee. Before I start I would like to state that housing is a basic human need, not a commodity to be built for profit or greed.

This brief will deal with our location in history, our experiences, rent review and some proposals. We are an affiliated member of the Federation of the Metro Tenants' Associations and support their brief to you presented on April 16, 1978.

We are tenants of two limited-dividend buildings located at 700 and 730 Ontario Street and, more specifically, within the St. James Town complex. They are two 14-storey buildings that differ vastly from every other building in the area and nothing about them approximates luxury. There are no balconies, no carpets, no intercoms, no locks on the front doors, no security guards, no swimming pool. We are denied access even to the recreation room, the cost of which is built into our rent. Even the shrubbery around the building—called landscape—is capable of surviving neglect.

[10:00]

The association was formed in the fall of 1974 in response to an unjustified rent increase of \$17. All the tenants withheld the rent increase for two months without negotiating with the landlord and CMHC. The landlord was forced to provide some financial information to justify the rent increase. Municipal, provincial and federal politicians



involved with the tenants at that time agreed that not only were costs inflated but that tenants were paying for non-existent services; for example, in 1973, \$1,700 for a security guard and a projected figure of \$2,100 for 1975, and \$1,700 for drapes in the foyer. The state of the building—falling ceilings, faulty appliances, stripped floors, mice and cockroaches—did not in any way coincide with the landlord's alleged maintenance and expenditure; for example, \$10,000 for cleaning materials, \$7,000 for landscaping, to name only two.

CMHC started a program of inspections based on completed questionnaires from tenants but could not cope with the volume because of lack of staff. The rent increase was finally instituted in two stages, \$10 for six months and the additional \$7 at the end of that period. Because our problems were never really resolved, we lobbied to be included in the provincial rent review program.

Prior to rent review, rents were increased beginning at the term of the lease on the basis of an escalation clause in the lease. The landlord, after getting approval from CMHC for an increase of 18.71 per cent, applied to rent review for an increase of 17.6 per cent. The association, which had dwindled because of attempted evictions, harassment, et cetera, regrouped for rent review. We requested and got a night hearing and a joint hearing.

Examination of the landlord's financial information filed with the rent review office showed the following: 1. All leases expired on November 30, 1976 (that was false); 2. Invoices on file with addresses other than our own, example Wellesley Street, Howard Street, Kingston Road; 3. Invoices addressed directly to the head office management company; 4. Invoices on which the destination had been covered over during photocopying; and 5. The chartered accountant's comments accompanying the financial statement made the following declaration: "We are not independent with respect to the company et cetera."

Our new findings, coupled with our past experience and the deteriorating state of the building, generated doubts among the tenants as to the truthfulness of any information filed by the landlord. More than 300 tenants attended the hearing. Our agent tried to have the landlord's application ruled invalid on the basis of the first point, without success, and this irritated the tenants. The hearing was adjourned after 45 minutes. The hearings were subsequently split up into small groups and during working hours. We applied to the

minister for the legal and technical assistance provided under section 19(3) and were denied.

Hearings were held at night, away from the buildings. An increase of 13.79 per cent was granted in spite of the irregularities just mentioned. Although the act makes provision for landlords to be fined for violations of the act and the rent review officer recommended such a penalty in a memo dated December 16, 1976, to the senior rent review officer, nothing was done.

A series of memos among the top members of the program give the impression that they, too, are intimidated by the power of the landlord. A memo from the original director, dated January 26, 1977, to the legal adviser, states: "I feel that because the amount is quite substantial, the landlord will likely apply for a judicial review if we should throw out the case."

It is obvious from this and other facts that the lower-income tenant being gouged by a dishonest landlord is not a consideration, but the threat of the landlord profit is the prime concern.

At this time we feel it is absolutely necessary to say that our landlord is Barbara Apartments Limited, a company with shareholders. The Meridian group is supposed to be managing the buildings. Our rebate cheque comes from 308182 Ontario Limited and we have on occasion received an application for lease renewal form that makes reference to Terraview Limited, Canada Company, et cetera. Will shareholders have the interests of low-income tenants at heart or will their first concern be a return on their investment? Who are the shareholders? Are they aware of the living conditions in the buildings of Barbara Apartments Limited? The Meridian group, Terraview Limited and 308182 are all the same people, all related companies. If these buildings have been operating at a loss for years, why are all these companies involved? Perhaps they are contributing factors to the loss.

In a memo from CMHC we are told that a rental increase is justified on the basis of market rents in the area of the subject property. Given the fact that everything in the area is luxury and owned, managed or operated by 308182 Ontario Limited, is that a fair basis for our rent level?

An article in the Toronto Star, dated December 7, 1976, and headlined, "Dropping Firm Cuts Fees 10 per cent, Residents Claim," states: "A group of North York condominium owners say they have given themselves a 10 per cent cut in monthly fees by getting ride of the property management company that built their homes.

"Roy Ross, president of the condominium corporation, said residents of the Sunny Glen Way project of apartments and townhouses were charged \$57,000 in maintenance fees last year.

"The property was built by Meridian Property Management Limited and the \$1-million mortgage is held by the Ontario Housing Corporation.

"Earlier this year, the condominium board voted to sever the contract with Meridian by simply not paying monthly fees. They then hired another management firm.

"By switching, Ross said homeowners wiped out a projected debt of \$63,000 for this year and will have about a \$40,000 surplus next year. Ross said home owners were paying \$600 a month in mechanical maintenance fees, but he maintains that no work was done. 'We were being charged \$25 to have a pothole filled that couldn't have cost more than \$5,' said Ross.

"The 440 home owners in the condominium project voted last month, effective on January 1, to reduce their monthly payments by 10 per cent, an average saving of about \$100 a year.

"The grounds and buildings have never looked better,' said Ross. 'There is something wrong with legislation that gives us no choice over who manages our property for five years.'"

We are not home owners. We only have an apartment which we pay for but which is not ours. We must suffer the unconscionable increases. The tenants in these buildings are by definition low- to middle-income workers who are single parents, students and senior citizens on fixed incomes.

Prices are steadily on the increase while our real incomes are being eroded. The AIB has controlled our wages. Unemployment is over one million. Many of us have been forced to subsist on UIC through lack of employment and have to live on 66 per cent of our former income.

Our oldest senior citizen in the building, an 80-year-old who has lived in the building for 12 years, has been forced recently to sell her piano so that she can set aside some money towards the rent for the coming months. Her stove and fridge have never been replaced, although they are faulty and have been reported. She also is supporting a disabled daughter. Her rent on a two-bedroom apartment has gone from \$145 to \$197 between 1975 and 1977.

Our incomes are low. Our costs are high. Food and clothing prices, TTC fares and OHIP premiums have increased. Our rents are supposed to be low because our incomes

are low. Where can we go if we can't afford these rents? Our landlord keeps applying for and getting major increases without proper substantiation.

Tenants are not opposed to paying an increase for work done and done properly, but so far none of these increases translate into better living conditions. We are human beings, poor but proud. We are not begging for anything we don't deserve. We deserve good, safe, healthy conditions for ourselves and our children. We hope that this committee has the moral courage to implement a strong rent control program.

Under the existing act, the tenants have no access to the substantiation of landlord expenses unless the rent review officer requests them. To overcome this, we would recommend that tenants have access to all receipts, invoices et cetera used as the basis of a rent determination. At present, our hearings are being scheduled during the day at great inconvenience to the tenants. We are being advised to appoint agents who, though they will do a good job, are not, however, in a position to contradict evidence given by the landlords or by way of supplementary documents at the hearing. This creates the additional problem of correspondence to political officials to obtain rights that are supposed to have been built into the act. We are unaware of any landlord having to undergo similar hardships. We would recommend a policy decision that evening hearings be held when requested by the majority of tenants.

The landlord participating in a rent review hearing can hire a lawyer and an accountant, which the tenants pay for, to assist him. This puts the tenant at a disadvantaged position. We recommend equal representation for the tenants and, further, suggest that such a cost should be borne by the government. As it stands presently, tenants are paying for substandard housing. We recommend no increase for substandard housing under either the federal or provincial program. Our rents have increased by 15 per cent in 1976 and by 20 per cent in 1977. We shudder to think what would happen if rent review was discontinued.

As limited-dividend tenants we want to remain under the rent review act and would recommend rent control, not just rent review. If limited-dividend landlords are having as many problems as they say, they should let a tenant manage the building. Tenants' rights under the Landlord and Tenant Act should in no way be reduced or weakened. We support the housing tribunal system as suggested by the federation of Metro tenants.



**Mr. Acting Chairman:** Thank you very much, Mr. Pigadas. Mrs. Campbell, I think you have a question.

**Mrs. Campbell:** I am very grateful to you for bringing this case forward because this afternoon we heard a plea from one of those appearing that limited dividends should be removed. I know this case. It is in my riding. I participated at the time that we got the dividend increases and participated in trying to get the information to these tenants. I am going to tell you when he mentioned the drapes in the lobby, there never were any drapes in the lobby. That was one of the items submitted to Central Mortgage and Housing Corporation.

With limited dividend, if you continue on that basis, the tenant has no input at all. There has to be a better kind of break for a limited dividend and it can only be through some form of rent review where there is at least the beginning of a chance to look at some of the information.

I believe that we have been able to get your hearing before the rent review officer now put on to the evening.

**Mr. Pigadas:** That is true, yes.

**Mrs. Campbell:** It was adjourned the other day.

**Mr. Pigadas:** It was turned down at the beginning but after that they accepted the change to a night hearing.

**Mrs. Campbell:** It is important that we hear from people who are suggested by others to be eliminated from rent review. In this case, there wasn't one thing in there that wasn't accurate. It's a pretty startling situation when CMHC is so casual in the way in which it grants increases under limited dividend. I think in this case the limited dividend is a seven per cent yield. I think that's what it is.

**Mr. Acting Chairman:** Thank you, Mrs. Campbell.  
[10:15]

**Mrs. Campbell:** I'm grateful to you for bringing it forward, particularly tonight.

**Mr. McClellan:** The other classic limited dividend ripoff is a building in my riding, 800 Richmond. I wondered if in your building there had been any experience of the landlord charging in excess of the CMHC-approved rental scale. Have you had that experience?

**Mr. Pigadas:** I think this is the rule in these buildings.

**Mr. McClellan:** The rule rather than the exception, you mean.

**Mr. Pigadas:** Yes. What I am trying to say is that they are trying to justify their raises on outrageous figures they submit and which no one can check. They cannot substantiate their expenses to the tenants; that the main problem. We cannot check them. For instance, last year they wanted to justify \$15,000 for elevator maintenance. Most of us are scared to get in those elevators, but they still want to justify \$15,000 for elevator maintenance. I am not an expert, but I think with \$15,000 you can buy a brand-new elevator.

**Mrs. Campbell:** I don't think though that that is the case here. The question was whether or not you were asked to pay more than Central Mortgage allowed. I don't think that happened.

**Mr. Pigadas:** I am not in a position to answer that question; I don't know about that.

**Mr. McClellan:** Central Mortgage certainly didn't put up any fuss about the items that were being submitted.

**Mr. Pigadas:** I don't know that; I can't answer because I am not informed. I would like to add that in the last two years the average rent increase was 16.5 per cent for 1976-77-78.

**Mr. McClellan:** Again, we have no interest at all in allowing limited dividend to come out of rent control because of the problems that I have experienced at 800 Richmond and the kinds of problems you are describing here tonight.

**Mr. Pigadas:** The problem is not rent review; the problem is to apply the rent control. At rent review they have all the means to prove their cases. I do not hesitate to say that most of their figures are phony. I cannot prove that, but they charge all these outrageous numbers that it is so obvious.

**Mrs. Campbell:** You should see the landscaping.

**Mr. Pigadas:** Yes. There is no landscaping and they charge \$5,000 for non-existing landscaping.

**Mr. Acting Chairman:** Ladies and gentlemen, we cannot resolve whether those things are properly charged or not. One of the things we can do is look into the availability of the program and the involvement with limited-dividend projects. Can you give us any guidance as to how the program can be improved upon from the experience that you have had and the difficulty you have had in hearings and resolving problems? That's something that perhaps we can help with.

**Mr. Pigadas:** I think we have some reason to doubt the impartiality of the rent review



officers. What I would like to say is I think the officer should have credibility with the tenants and the owners. The way it is right now there are historical doubts.

**Mr. Kechayoglou:** My name is Serafim Kechayoglou and I would like to add something. I am a tenant. I tried to compare some estimates they were making on the basis of which they proposed a rent increase. I found some figures that didn't help me that much to see the honesty of the landlord. For instance, in 1972, he had a profit of \$26,000; in 1973, he had a profit of \$32,000; in 1974, he projected a loss of \$46,000 and his actual loss was \$10,000. On the basis of this \$46,000, he proposed a rent increase. The next year's projection, I suppose for 1975, would be based on the actual 1974 figures, which means that tenants never got the rollback for what they paid in 1974 increases.

I was trying to get hold of some financial information and all I could get were some financial statements accompanied by a letter saying that the chartered accountants who audited the statements couldn't make any comments on the statements because one of the members of the corporation which owns the building is a member of the chartered accountant firm.

**Mr. Acting Chairman:** What do you think could be done about that as far as certification goes?

**Mr. Kechayoglou:** I think the tenants should be given access to the financial information of the landlord. Not only access, but I think they should be provided with funds so that they can hire an accountant or somebody who knows how to check this financial statement.

**Mr. Acting Chairman:** And who should pay for that?

**Mr. Kechayoglou:** The government—unless the landlord is willing to do it.

**Mr. Acting Chairman:** You will have to remember, of course, that the government is your tax dollars, so that we have to strike a balance in some of these things. However, the matter of assistance was raised by Mrs. Campbell earlier, on a matter she was involved in as I recall with respect particularly to this project and to the availability of expert assistance on those occasions when it is needed, which may not be every instance but there are obviously some very involved occasions when it is needed, and that point was made. Thank you.

**Mr. Kechayoglou:** If I may make a comment on the tax dollars you mentioned, in those two buildings we have people who

must have a family income of less than \$11,500. The rent increases they are getting are from 14 to 20 per cent. That was proposed this year by the landlord. The consumer price index rise is much more than their wage increases. OHIP fees, at least as far as we know, have gone up by one third, or maybe more than that.

So everything is going up and we are supposed to have incomes of less than \$11,500 in order to live in these apartments. If we have to carry the expenses of hiring an expert to look into the statements of the landlord we can barely survive in these buildings, so if the landlord is not willing to help us our only help can come from the government.

**Mr. Acting Chairman:** You make a valid point. I just wanted to make sure that the members of the committee realize that as well. The difficulty with your income situation might be resolved by, for example, a decision made at a hearing, that any costs that you undertook would be found against the landlord where he, or the company, or she, or whoever, withheld information improperly. This may also be an improvement that could be of value.

**Mr. Kechayoglou:** I would like to say something else. Earlier some of the people who were asking questions asked tenants about some government policy questions. I do not want to undermine the mentality of the tenants, but it seems that we should, in a hearing like this, restrict discussion to issues that tenants can handle. I might say that I personally can answer some of these general questions, so I would really love to have these questions repeated, about free market and all the rest.

**Mrs. Campbell:** Don't ask.

**Mr. Acting Chairman:** I presume Mr. Duksza might like to put those questions to you.

**Mr. Duksza:** I will, I will. After all, I have done it all evening.

**Mr. Acting Chairman:** Go right ahead.

**Mr. Duksza:** Which particular questions are you interested in, sir?

**Mr. Kechayoglou:** Any type of question.

**Mr. Acting Chairman:** In the absence of placing those questions, we thank you very much for being with us on behalf of the Barbara Apartments Tenants Association. Now we have with us Ethel Armstrong, of 15 Eva Road.

**Mrs. Armstrong:** Mr. Chairman, ladies and gentlemen, I represent the Fairport Tenants

Association. Our association was formed just over two years ago to represent the tenants of a limited-dividend building sponsored by CMHC and first occupied about four years ago. Just north of Bloor Street, west of Highway 427, the building has 195 suites and our association is affiliated with the Federation of Metro Tenants' Associations.

We cannot stress too strongly the importance of not only continuing but strengthening rent review. While all of the tenants we represent are low-income families, we have a great many pensioners, disabled persons on fixed incomes, along with many single-parent families, usually mothers with one or more children that they are supporting without any assistance.

You are all aware of the meagre increases that have been offered to senior citizens via their pension cheques and yet last year management proposed increases in rents ranging from 18 to approximately 20 per cent. Through the auspices of the rent review office and after no less than four visits to the rent appeal board, we were fortunate enough in some cases to have the increase rolled back to approximately 11 per cent, and even this increase presented a real hardship to many of our tenants.

For single parents with school-age children, moving just isn't the answer. In the first place, disrupting the children in schooling must be a matter of prime concern and without the continuance of rent review one might easily find that any move would be simply out of the frying pan into the fire. Add the cost of moving, not to mention the disruption in the family life, without rent review to protect the tenant, he or she might find even another more exorbitant rent increase at the end of a short-term lease, and we have to look too at the increased cost of housing as opposed to income increases.

In many cases the AIB has pegged wage and/or salary increases at eight per cent or less, while the landlords demand in many cases 20 per cent or more.

We are now faced with lack of services. Our back parking lot has been sealed off, the children's play area—it was pretty lousy—has now been cleared away completely to make room for what is going to be a parking lot. Right now, it's an open area, it was covered with ice all winter and mud all during the spring. The laundry rooms are filthy and the equipment completely inadequate, even when working. There is absolutely no security offered and vandalism is a continuing problem.

When our executive met with the landlord to offer our co-operation in any way we could,

we brought up the subject of vandalism and his only answer was a threat made to the executive that if the problem continued he would simply padlock the building.

During the four years the building has been open, we have had at least three owners. The gentleman who spoke earlier brought two or three things to mind. We have been involved with the 12346 Ontario Limited; we have been involved with one, two, three, four different owners, but it all seems somehow—I don't quite know.

**Mrs. Campbell:** Tied together.

**Mrs. Armstrong:** Something like that, but with each one of these changes in ownership came an increase in rent, on the basis of a new landlord. Then to further complicate it, since our building and the luxury building in the same complex are part of the package, even the rent appeal board noted that it was difficult to determine which portion of the mortgages should be assessed against our building as opposed to the portion that should be absorbed by our neighbour building at 19 Eva Road.

Just at this point, numerous tenants in the building are being served with eviction notices. I'm one of the lucky ones. The landlord wants my apartment along with four others that we know of in the building, for his own family.

In two other notices, he simply wants to "repossess their apartment at the end of their lease." One tenant was requested to vacate due to lack of maintenance of his apartment. The tenant called in an inspector from the borough of Etobicoke and the inspector confirmed that the only damage to the apartment was due to the building settling. There was a crack all down the wall.

[10:30]

As a CMHC limited-dividend building, most of the tenants expected minimal rent increases. Just now, our landlord has made application again for increases in the range of 15 per cent to 20 per cent for a majority of the apartments. When I contacted CMHC earlier to ask if they looked into the applications they received from the landlords, I was advised that they simply did not have sufficient time or people to check out each application. In other words, it would appear that they simply rubber-stamped the landlord's application.

Our landlord has not rebated to any tenants the six per cent interest on the final month's rent he is holding, but he advises that this can be deducted from the next rent increase the tenant receives. We have not yet seen a single notice of rent increase that mentions



deducting this six per cent increase on the last month's rent.

Without the protection of a rent review procedure and a Landlord and Tenant Act that can offer real protection to the tenants, their position will become intolerable. We urge you to give your most serious consideration of these matters and to give detailed study to the brief presented to you by the Federation of Metro Tenants' Associations.

**Mr. Acting Chairman:** Thank you very much, Mrs. Armstrong. That's a most useful brief, particularly the matters with respect to the failure to check out increases.

**Mrs. Campbell:** I am very pleased too to have this brief. I wonder if our consultants might take under consideration this problem which arises, I think, more with limited dividends than with others. In both of these cases, it is the same owner. In this case, it is a luxury apartment where it's difficult to assess. The one mortgage is on both, is that not so?

**Mrs. Armstrong:** The story apparently is that it's an even split. The building at 19 Eva Road, I understand, has consistently had an eight per cent or a six per cent rent increase. I'm not sure, but I've been told that.

**Mrs. Campbell:** This is the same thing with the Barbara Apartments, because I wouldn't say that any of the Barbaras would be called luxury suites in a conventional building. There is the opportunity for confusion, if you like, in the books when you have similar costs of materials to Barbara Apartments which they were speaking about. Nobody could be sure, except the tenants that that \$10,000 actually applied to their buildings alone. The same thing, I'm sure, is true here. I think it's a very special thing on which we should have some in-depth study if we can get it.

**Mrs. Armstrong:** As I understand it, Mrs. Campbell, as I've been in 19 Eva Road, they do have a swimming pool. They have tennis courts and they have saunas. They are certainly much more carefully maintained than our building.

**Mrs. Campbell:** And you say the mortgage is evenly split between the two?

**Mrs. Armstrong:** There are not as many apartments in the other building. It's a 14-floor building while ours is 19 floors. Their apartments, I understand, are much larger and more spacious. They're air conditioned I understand.

**Mr. Makarchuk:** I find it hard to understand it when you say that it's very difficult

for the management to decide which portion of the mortgage applies to which apartment building. That's a lot of baloney.

**Mrs. Armstrong:** I didn't suggest that the management said that but the rent bureau.

**Mr. Makarchuk:** No, the rent review. If they really wanted to find out they'd know that if they're putting up a building, any management worth a pinch of salt would know exactly what it cost to put up the building.

**Mrs. Armstrong:** They've moved us around so often that they're not sure.

**Mr. Makarchuk:** The book costs are around and available. The other point is that they're depreciating the building. Those figures are available. If they're available for income tax, they should be available for the rent review. It seems to me the rent review people are not really that anxious to find that information. If they really wanted to find out, if you put the screws to them—pardon me being so blunt—they'd come out with that information very fast.

**Mrs. Armstrong:** Both the appeal board and the Ontario offices in Etobicoke have been as helpful as can be. They insist that they have never seen such a thorough mess as there is at 15 Eva Road.

**Mr. Makarchuk:** That's not a mess; that's a calculated deception. Don't get the idea that it's a mess. There are a lot of those things happening.

**Mrs. Armstrong:** New tenants are being handed increases when they move in. They're told the rent is \$30, \$40 or \$50 higher than the rent was six months earlier by the rent review office and they were told that if they didn't like it, they could move.

**Mr. Acting Chairman:** Thank you very much, Mrs. Armstrong. We have Joyce Reali, of the Fairplay Tenants' Association.

**Mrs. Reali:** We, Joyce Reali and Kevin Clinch, present this brief on behalf of the Fairplay Tenants' Association, which is affiliated with the Federation of Metro Tenants' Associations.

Our building is 501 Kingston Road, Toronto. It was built in 1959 before building and land costs began to spiral. Therefore it would have very low costs by comparison with later buildings. It has 75 units and includes two penthouse apartments of three bedrooms each, 36 two-bedroom apartments, 33 one-bedroom apartments and four bachelor apartments. We have no sauna, pool, or recreation room, and have outdoor parking only, with only 41 spaces.



There is a tremendous inconsistency in rents. One one-bedroom apartment in the basement with no balcony is now renting for \$250. In August 1976 this same unit was renting for \$160. The increase of \$90 has been made between tenancies and by adding used broadloom to the apartment. A one-bedroom on the main floor is currently renting for \$190, while a two-bedroom on the same floor is currently renting for \$189.

This brief is presented with the purpose of stressing the absolute need for continuing rent review, as the following statement on the situation in this building will uphold.

The rental revenues for the year 1975, as per the landlord's statement presented to the rent review board was stated to be \$153,081 for the year, a per-unit average of \$2,040 per year or \$170 per month.

The first rental increase allowed by the rental review board varied from 12.5 per cent to 16 per cent for the year 1975 through 1976. The request was for 25 per cent. This increase was based on proposed major expenses over and above general maintenance and operational expenses, to be completed over the years 1976-77 as follows: garbage compactor, estimated cost of \$9,000, approved; major roof repairs, cost of \$8,000, approved; carpeting of hallways replaced, \$8,000, approved. The total approximate cost was \$25,000.

The first item is required by city bylaw. Since this building is close to 20 years old, the roof repairs are a normal necessity. The carpet must be replaced; due to wear and tear it has far outlived its normal lifespan. Rents are set up in the first instance to include a reserve account for future replacements from wear and tear, and upkeep such as roof repairs and these expenditures should be charged to this reserve account. Tenants should not be expected to pay the full cost of such replacements again, other than the inflated cost for which increases are granted.

Since the first increase allowed by the rent review, as stated overleaf, the tenants have had an eight per cent increase for 1977 and a further six per cent for 1978; yet none of the items of expenditure mentioned and allowed for at the first rent review hearing have been carried out. No painting of apartments is done any more. Most of the units still have the original stoves and refrigerators, which are now in their 19th year of service.

This building has always had good class, long-term tenants, 40 per cent of whom have 10 years or more of tenancy. The building has never been subject to vandalism or abuse and has had very little spent on it. The only upkeep has been from wear and tear and

building defects. In 19 years, the halls have been painted twice—once because of smoke damage and once in 1977 after receiving a 16 per cent rent increase from the rent review board.

Today, several apartments are troubled with moisture penetrating the walls and with leaking ceilings. One apartment has three areas in the living-dining area and another spot in the bedroom where the water runs in streams. The plaster has widespread cracks and is in danger of coming down. This trouble dates back over a year and the landlord has done nothing to repair the situation despite requests from the current tenant. The current tenant is moving out May 15, 1978, and the apartment was rented to a friend of the superintendent. The proposed rent for this apartment effective June 1978, was \$223.

As the apartment was rented, we believe to a friend of the superintendent, we are unable to find out what the rent actually being charged to the new tenant is. No doubt it is well over the six per cent which was to have been effective June 1, 1978, to sitting tenants.

Our present landlord, the widow of the original landlord who was also the builder, wants all and gives nothing. Her attitude towards the tenants is very antagonistic. Her husband was an excellent landlord. He took pride in his building and maintained it in good repair at all times. The building has had a minimum of loss from vacancies. As apartments become available they are practically rented again within a few days. The location is a desirable one.

To further stress the need for rent control, we report the current situation in our building when apartments become available for rent. Tenants are denied the privilege of transfer from one apartment to another when a vacancy occurs, as is evidenced at the moment, since two one-bedroom apartments have been up for rent since April 1 and as far as we can determine have not been rented as of May 8. This is most unusual for this building.

The rents for both these apartments were increased on March 1, 1978 to approximately \$197. Upon becoming vacant, they are being outfitted with used broadloom and the asking rents have been further increased to \$285 and \$295 respectively, effective June 1, 1978. If she permitted present tenants to transfer, she could not charge these illegal rents.

One tenant in the building was seeking an apartment for a friend and inquired about this apartment for rent. On hearing the rent, she called the rent review board and tenants' association and was told this was an illegal

rent increase and the only person who can stop this was the tenant who rented the apartment.

Is there no other way of informing the landlord of this illegal rent increase? Can the rent review board not issue anything to the landlord on receipt of a complaint from a prospective tenant? We have proof of rent increases of March 1, 1978, by six per cent and also the June 1 rent to be further increased to \$285, with the installation of used broadloom. The superintendent was informed that this increase was illegal and she claims that the landlord had clearance from city hall to charge any rent he wants if he improves the apartment by adding broadloom. Is this a fact?

Approximately 25 per cent of the tenants are retired or widowed with fixed incomes, which we know are all far below the average working wage, and whose incomes are not indexed to the inflation rate and no doubt are having difficulty or becoming unable to maintain their standard of living. They certainly cannot meet high rental increases. What are such people to do? Where will they find other accommodation if they could afford it?

To repeat what we say at the beginning of this brief, our tenants feel very strongly the need for continuation of rent control. There must be no relaxing of controls. Tenants must be protected from gouging landlords and must be able to appeal excessive increases. [10:45]

Landlords must—and we stress must—be forced to justify increases by showing proof that repairs and upkeep of buildings have been carried out to the point that such work be subject to inspection after a set period of time from the date of increase allowed by the rent review officer.

Landlords have to accept operating costs as their normal responsibility, as is the case in every form of business. Annual rental increases are adding to a prolonging inflation and increases should not be allowed where the landlord can show his revenue is slipping below the inflationary rate.

**Mrs. Campbell:** Excuse me, "should only be allowed," is that not correct?

**Mrs. Reali:** I'm getting kind of hoarse now.

For instance, the rental from our building has grown from approximately \$153,000 to approximately \$194,000 with the three allowable increases since rent review started, better than 25 per cent in less than four years as per the statement below—several times the rate of inflation. I guess you don't want me to read those figures.

If all landlords are like the landlord of this building, and no doubt many are, the increase all goes into their own pockets rather than into the building upkeep, and therefore increases are not justified. Profiteering at the expense of tenants should be made illegal and subject to heavy fines. Standards of upkeep should be made mandatory. Through lack of upkeep and maintenance, buildings become unfit and uninhabitable.

Developers, while providing a service to the community in building apartments, must at the same time accept responsibility towards the tenants. Developers are proving themselves to be a greedy class of businessmen. They want the highest immediate return on investment, rather than showing interest in investing in the future of our country.

**Mr. Acting Chairman:** Thank you very much, Mrs. Reali.

**Mrs. Reali:** Kevin is going to answer any questions that you have.

**Mr. Acting Chairman:** Mr. Clinch, if you'd like to come forward then, there may be questions from our members.

**Mr. Clinch:** I'm sorry it has to be split up two ways. Joyce and myself did a little footwork on this. I think she speaks rather well and I do the questions.

**Mr. Acting Chairman:** Fine. Are there any questions which members have with respect to this?

**Mr. Duksza:** It's rather well worked out.

**Mr. Clinch:** Sorry about the spelling, we're not too bright at that.

**Mrs. Campbell:** I think it's excellent.

**Mr. Acting Chairman:** It seems very clear.

**Mr. Duksza:** Basically, I have no questions because you've answered all of them in the text and you have supported, by your presentation, what other tenants have said.

**Mrs. Reali:** The thing is, when he puts rents up six per cent all he writes on here is "increase in operating costs." He doesn't say anything more.

**Mr. Makarchuk:** It seems to me that they're getting ready to sell this building.

**Mrs. Reali:** I don't see how they can.

**Mr. Clinch:** Oh, I don't think so, sir. I know this gentleman who's actually handling the management of this particular building. I've met him on two occasions and he has a tendency to harass the older women in our building. His means of harassment, being a male, he comes on very virile, as I guess he has with management, and with a widowed woman, and been able to move right into a



job at \$24,000. I guess he's better than Pierre. He must be doing rather well for himself.

He never harasses the male occupants in our building; he always seems to pick on the individual widow or the single female. On occasions I have asked him about maintenance in the building, in particular the parking lot. I have a small Honda Civic, which cannot leap snowbanks in a single bound. I find it quite difficult to come into a parking lot with six inches of snow on the ground. I've mentioned this to him. I asked him where he lived and he mentioned that he lived in a higher class area, this higher class area being Downsview—no disrespect to the members from Downsview. With regard to this Downsview area, I suggested to him that it was closer to work for me and, since the TTC was co-operative in building the Spadina subway, as they have done, it would be a great advantage if he gave me his address. I would like to park my car in his driveway, seeing as it was shovelled and our lot wasn't. The following day our lot was shovelled.

Does this mean the tenants have to go back and harass him mentally, or what do they have to do to create a situation here? When a man phones him directly and says: "Hey, man, get off your butt and come out and do the job you're supposed to be doing because that's what you're being paid for here," he comes across and does it. But when a woman asks him the same question, all he says is: "Pardon me, madam, you owe me more rent."

**Mr. Makarchuk:** Looking at the figures and looking at the effort they're making to increase the rents and so on, if you depreciate the building to what it was in 1975, the book value is about \$265,000. If you look at 75 apartments and the figure that was quoted today, it costs about \$17,000 per apartment. There's obviously lots of room for capital gains in it. I just thought if that's not the case, when they can jack up the rents one way or another, get all these tenants with higher rents, then the building becomes a much more sellable item.

**Mr. Clinch:** I can see what you're getting at. There is something I would also like to bring out. At this particular hearing, we mentioned that this 40 per cent occupancy is by older women. They suggested a day hearing, which we had no objection to because it was the same situation that happened here. We had a packed house. I would say the rent review officer had a difficult time coping with that. He didn't expect the turnout that he did get.

**Mrs. Campbell:** That's too bad.

**Mr. Clinch:** A question was asked of his solicitor, Sutherland, who, I believe, is the management solicitor. He was asked to speak on behalf of Mrs. Elief, who was the owner of the building. During the proceedings, the rent review officer did ask: "Mrs. Elief, can you justify these rent increases by showing me your books?" She came out with: "We have major roof estimates by Mr. J. Elief." The rent review officer said: "Who is this J. Elief?" She said: "That's my son." That happened to be a \$7,950 increase. That was his estimated bill for repairs.

We don't mind if you can keep it in the family, so to speak, but he came up with all sorts of beautiful figures. For example, \$7,000 for painting just the hallways on seven floors. We asked him what he was painting it with. The rent review officer himself suggested: "Could you bring those books in and show us?" They said: "We at this time would like to get together and pull our horns in a bit here and adjust things." And they were adjusted.

What we'd like to know is, if rent review does decide to forget the whole thing and leave it up to the individual, does the individual have to form himself a union as they've done with the tenants' association? Do we have to picket where we live? Do we have to become radicals?

**Mr. Makarchuk:** Obviously, Mr. Elief is not only a roof repairer, but he's also a carpet layer, a painter and a carpenter—a very talented fellow.

**Mrs. Reali:** That's right. And the manager is Mrs. Elief's boyfriend.

**Mr. Clinch:** We can't say that. I'm sorry.

**Mrs. Reali:** Yes, we can.

**Mr. Clinch:** I'm sorry. We'd like to refer to the fact that they don't, but they do, but we can't.

**Mr. Acting Chairman:** Are there any other questions that members have with respect to this apartment?

**Mrs. Campbell:** Was this question of the broadloom raised? Did you have occasion to raise it at your hearing?

**Mr. Clinch:** With regard to what?

**Mrs. Campbell:** The installation of broadloom and the increases. This came after the hearing, did it?

**Mr. Clinch:** This just occurred recently, in 1978. We have approached management on that directly, this gentleman who manages for them. Again, he is saying that he has "permission from city hall." Those were the words and we've written this down. He says he has permission from city hall. If they



upgrade an apartment, they have the right therefore to adjust the rent at their discretion.

**Mrs. Campbell:** I would suggest that you get from him the name of any person with whom he spoke at city hall.

**Mr. Makarchuk:** Just tell him you got permission from Queen's Park not to pay it.

**Mr. Clinch:** If I may suggest, the problem here that really does concern us is not the problem that has been previously brought up by various people in other areas, but the area in which a rental increase is being granted by your good selves and the rent review board and the work has not been followed up. The point is who does the followup? If you don't get feedback from the tenants, you take it for granted that the work has actually been done.

Is there not a department that could be set up or should be set up that would take care of this? Why should we have to go and—excuse me—stick our ass on the firing line for a department that should be created right here? If you don't get feedback from us, then where does it come from? You think it's being done and everything's settled and everybody's quite happy. Then the next thing you know, you've got a bunch of people coming into a room and spending your evenings when you could be home with your families. It's a thing that should have been thought out in the first place.

**Mrs. Campbell:** The problem, and why you should try to follow through on the broadloom thing, is that they may be saying they have furnished the apartment, in which case there is a different implication. That's why I think it would be advisable to pursue it, to see if in fact they ever did speak to anybody; there's nobody at city hall to give them that kind of permission. But what they may be saying is: "We furnished the apartments; therefore, they're taken out of the same category." You watch for it in your next rent review.

**Mr. Clinch:** By placing broadloom, whether it be new, used, borrowed, or otherwise, in an apartment, does that institute a rent increase as a refurbishing of an apartment?

**Mrs. Campbell:** I wouldn't think so in any event, but they may bring it in under furnishing an apartment, in which case there are different implications.

**Mr. Clinch:** So it's a furnished apartment as averse to an unfinished apartment; this is what—

**Mrs. Campbell:** I'm not saying that's what they're doing. I'm asking that you check it out.

**Mr. Clinch:** Oh, check into this and see that this is not just the case. I see.

**Mr. Acting Chairman:** Thank you very much, Mrs. Reali and Mr. Clinch.

We also have with us this evening the representatives of 22 Oakmount Tenants Association. I believe Mr. Elwood Hart is here.

**Mr. Valentin:** My name is Werner Valentin. I'm representing Mr. Elwood Hart.

**Mr. Acting Chairman:** Please, Mr. Valentin, would you give us your comments? We have the letter that was sent to the ministry on May 10; members have copies of that.

**Mr. Valentin:** I will proceed to read the letter.

**Mr. Acting Chairman:** As you wish.

**Mr. Valentin:** "Our association represents the tenants of 215 apartments located at 22 Oakmount Road, Toronto, Ontario.

"Our association welcomes the opportunity to express our views to your committee on what the government of Ontario should do about the rent review legislation if, or when, it expires.

"1. The complete abandonment of any form of rent control would create a disastrous situation for tenants, because there is still a grievous shortage of available tenancies in apartments in Metro Toronto and some other areas of Ontario.

"2. Allowable rent increases should not exceed the increase in cost of living in any year.

"3. Terms of reference for any rent review should include opportunities for tenants to offer evidence of breaches of the spirit and the letter of the Landlord and Tenant Act and also of inadequate building maintenance.

"4. Rent review should be continued and should cover all units.

"5. To reduce administration costs, there should be only one rent review per building per year to set the allowable increase.

"6. Tenants and landlords should present information to the rent review board two weeks in advance so that all facts and figures are known prior to the hearing.

"7. Consideration should be given to putting as much of the Landlord and Tenant Act as possible under the same umbrella as the rent review board.

"An investigation into the recent jump in real estate values of apartment buildings in anticipation of the removal of rent control shows the jeopardy in which the tenants will find themselves unless control is continued."

**Mr. Acting Chairman:** Are there any questions which members may have?

**Mr. Duksza:** Very short, distinct and excellent.

**Mr. Valentin:** Thank you very much.

**Mr. Makarchuk:** To the point.

**Mr. Acting Chairman:** We have a comment from Mr. Warren Kazor of 3434 Eglinton Avenue East, who recommends that the rent review program be put under the control of the Ministry of Housing. Mr. Kazor, did you wish to comment any further on that?

**Mr. Kazor:** I purposely put it on the back of one of the tags that some of the tenants came in with. I think that would show, at least symbolically, that apartments are a form of housing. Having rent review under the Ministry of Consumer and Commercial

Relations shows that the government is recognizing only the landlords' side of the thing.

**Mr. Acting Chairman:** Thank you.

**Mrs. Campbell:** If you have a diminishing Housing ministry, I don't know that that's going to be that helpful.

**Mr. Acting Chairman:** The last person who was to come before us this evening was Mr. Mike Carson of the Ontario Anti-Poverty Organization. Is Mr. Carson with us?

**Mrs. Campbell:** No.

**Mr. Acting Chairman:** That completes the list of delegations which I had for this evening. I thank those who have been in attendance, particularly the members and our staff. I appreciate the interest which you have all shown in these hearings, which have gone for four hours and which have been most interesting.

The committee adjourned at 11:02 p.m.

## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R.; Acting Chairman (Kitchener L)

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Dukszta, J. (Parkdale NDP)

Epp, H. (Waterloo North L)

MacBeth, J. P. (Humber PC)

Makarchuk, M. (Brantford NDP)

McClellan, R. (Bellwoods NDP)

Samis, G. (Cornwall NDP)

Williams, J. (Oriole PC)

Ziemba, E. (High Park-Swansea NDP)

### Witnesses:

Armstrong, E., Fairport Tenants Association

Bennett, S. L., 10 Shallmar Tenants Association

Chilton, L., Crossways Tenants Association

Clinch, K., Fairplay Tenants Association

de Klerk, J., Chairman, Federation of Metro Tenants' Associations

Fink, R., 740 Eglinton Tenants Association

Gardner, K., 21 Mayfair Avenue Tenants Association

Kazor, R., King Towers Tenants Association

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Kechayoglou, S., Barbara Apartments Tenants Association

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Valentin, W., 22 Oakmount Tenants Association









No. G-15

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### Second Session, 31st Parliament

Wednesday, May 24, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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## LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 24, 1978

The committee met at 9:50 a.m.

### TENANT PROTECTION

(continued)

**Mr. Chairman:** Mr. Michael Walker, who came in from the Fraser Institute in British Columbia to address us this morning, is here.

Mr. Walker, would you be good enough to introduce yourself, for the record?

**Mr. M. Walker:** My name is Mike Walker. I'm research and editorial director of a group called the Fraser Institute in Vancouver.

The Fraser Institute is a nonprofit organization, which has national membership and national intentions. We view ourselves as a bridge between the academic community and the general public on the subject of public policy issues. We operate in the main by farming out projects to the academic community, collecting their research on the subjects we farmed out and in some instances translating that research into a more easily-read language and then publishing it to make the results of the research available to a wider audience. That's a little bit about the Fraser Institute.

We are funded by the private sector in its entirety. We don't accept moneys from government. We do raise a fair amount of our operating revenue from the sales of our publications. All the revenue from the sales is ploughed back to fund our research, so we are in every sense a nonprofit organization.

The work of the Fraser Institute is monitored by a board of editorial advisers who comprise some of the most outstanding minds in the economics profession, including Nobel Prize winners. The editorial board, as opposed to the board of trustees, has the final say on whether or not material is published by the Fraser Institute.

I was under the impression that you would have had a chance to peruse—or at least, had the chance to see, whether or not you perused it—my most recent essay on rent control. There was a book called *Rent Control: A Popular Paradox*, produced in 1975, which really attempted to survey the economic evidence on the impact of rent

control and whether or not it was a useful aspect of public policy to achieve a variety of objectives. Since that time, I have written an essay on decontrol and I might say that the essay was in part motivated by requests from the Ontario and Alberta governments at the civil service level, having gotten yourselves into the mess, to come and suggest ways that you might extricate yourselves.

That was over a year ago, and partially as a result of that interest, and also as a result of the fact that it seemed that people, in BC, for example, having lived with rent control for two years, were becoming more aware of the difficulties that rent control can provide and hence were perhaps more susceptible to suggestions about decontrol, that's what motivated the second essay in this book, *Which Way Ahead?* which is a more general book about wage and price controls and price controls of various sorts.

In any event, I can perhaps save you some reading by indicating that in this particular essay I have summarized the most important points that come out of the *Rent Control: A Popular Paradox*, so by reading a few pages in here you can effectively pick up the bulk of the argument that is contained in the previous book, and thereby economize on your time. I will summarize some of the main points right now so that we can lead into questioning on the basis of what my opinions seem to be, at least.

The principal reason why economists are concerned about rent controls is because they are counterproductive. Rent controls are usually put in place because there is perceived to be a housing shortage or the problems of a housing shortage are evident; namely, low vacancy rates, people said to be paying a high fraction of their income on rents, et cetera. You're all familiar with the reasons why rent controls get adopted.

The difficulty is that rent controls have a perverse effect on the housing market in the sense that since they provide a subsidy to tenants in the form of rents lower than they would otherwise have been they encourage people to occupy more housing space than otherwise would have been the case. For example, they don't discourage people to leave their parents' residence and move into

a flat. They encourage people not to double up. They encourage people to, in effect, consume or to occupy more housing space than they otherwise would have.

On the other hand, they have the effect of a tax on a landlord, because they remove part of the revenue that he would otherwise have received in the sense that rents that accrue under rent control are less than they would otherwise have been or else the rent control isn't effective. So, if you look at rent control as kind of a tax on the landlord and subsidy to the tenant, it isn't surprising that the net effect of rent control is to increase a housing shortage rather than to reduce it. It is a tax, it is a subsidy, and on both sides of the market it does precisely the opposite of what you want to have happen.

If you really think you have a housing shortage, then what you want to do is have people economize on space; you want to have people treat space as a scarce resource, you don't want to subsidize them to use it. On the other hand, if you want to increase the production of space you don't want to provide disincentives for its creation, and the tax that's implicit in rent control has precisely those characteristics.

The ultimate consequence—and I think this is probably a consequence with which you are all familiar—is the fact that it leads landlords to acquire a rate of return on their buildings by allowing the building to deteriorate. This is a very widely demonstrated consequence of rent control. If you put a tax on the landlord, and the only way that he can keep his rate of return on capital up is by, in effect, bleeding that capital out of the building, he'll do so by simply letting the building deteriorate. I don't think there is any doubt on a historical or even on a current basis that that is not the case.

[10:00]

Because rent control is a tax and a subsidy, it operates very much like our ordinary income redistribution schemes in government. The government, by and large, taxes one group of people to provide subsidies to others. This is a sort of standard income redistribution.

The difficulty with rent control is that it doesn't provide this redistribution on any kind of a rational basis. It provides subsidies to some tenants who don't need any sort of a subsidy to maintain their housing standards, and on the other hand, in some cases, it is taking money from landlords who are ill-equipped to pay it. I take it you have already had evidence from your own staff that indicates that 30 per cent of landlords have in-

comes of less than \$10,000. It certainly isn't clear that by taxing landlords of that sort and redistributing it to tenants whose income may be three or four times that level it achieves the objectives of income redistribution that we would normally want to see.

I am not making a case that all landlords are poor and that what we are really doing here is taking from poor landlords and giving to rich tenants. But it certainly is possible that happens under some circumstances under rent control. And it certainly isn't obvious that rent control is a very efficient way to go about redistributing income, if that is what you want to do. But certainly rent control does redistribute income.

Another point that should be made about the economic effects of rent control is the probability that rent control leads to discrimination. I think one of the myths about rent control or tenant appeal procedures of whatever sort, will improve the ability of tenants to maintain reasonable housing standards free of the normal vagaries of the market. I think that all of the evidence that has been accumulated on New York City indicates that if you prevent landlords from discriminating among people on the basis of how much they are willing to pay for a suite they will find other ways to discriminate.

One of the ways they will discriminate is against large families, because the wear and tear on a house or apartment from a large family is obviously much greater than from a single person or a couple without any children. It is also true that people who are above average in their mobility, who move around a lot, get discriminated against because they increase the cost to the landlord because of painting and all that kind of requirement in between occupancy. Furthermore, there is evidence that minority groups—and this is again from New York City—are discriminated against.

The landlord who is not given the right to discriminate on the basis of income or willingness to pay the rent, finds other ways to discriminate. So I think it is important we realize that rent control does—at least the evidence suggests—lead to a variety of different kinds of discrimination.

A further economic effect of rent control is that it shifts the incidence of property taxation. For governments which use the assessed value of property as the tax base, the existence of rent control which is effective has the result of reducing the market value of rental property.

Rent control also has the effect, in the event that it creates a shortage of rental accommodation, of pushing more people into



the home ownership market. So at the same time that it is pushing down the value of rental properties, it is pushing up the value of home owner property. It doesn't take much knowledge of mathematics to figure out that if you have to raise a given amount of revenue on a property tax base, you are going to tax more the property owner or the home owner to achieve the results that you want. That can have quite a severe effect on the net tax load that is borne by the home owner.

**Mrs. Campbell:** See Darcy McKeough.

**Mr. M. Walker:** The net effect is that, for example, in the city of Cambridge, Massachusetts, where real property values actually fell during 1972 to 1974, the city assessor, in commenting on the situation, noted that as a direct consequence of the shrinking tax base the tax rate had actually increased by 70 per cent over the '70 to '74 period.

I think that is a very important effect of rent control because it creates, quite clearly, two different groups within society, the home owner and the tenant, and it says that not only is the tenant probably going to get cheaper accommodation, he is also going to bear less of the burden for financing public services over time. So it is quite an important economic effect.

A further economic non-effect of rent control, or an effect that is often presumed to exist but which has not been able to be identified, is the presumption that rent control, in fact, improves the housing condition of the poor. Most of the argumentation I have read about rent control argues from the position that we have to have rent controls to protect the poor, to increase the housing conditions of the poor, because if we don't do that, we have all these other social effects that fall from the inadequate housing conditions enjoyed by the poor.

The evidence—again from instances that have been very carefully studied—suggests what people do with the income that they get from rent control: If you have rent control, people who are not in, say, substandard housing can afford over a period of time to move into better housing or they have more income to spend on other things. The question is whether or not people typically spend that income they get from rent control on other things or do they spend it upgrading their housing.

All the evidence suggests that people don't in fact improve their housing conditions so that you don't, under rent control, find people upgrading into better housing. What you do find is that people will spend this extra in-

come on other things. So if you are using rent control as a way of improving the housing conditions of the poor, that is likely to be an ineffective policy.

Finally, in terms of the economic things that do not happen under rent control, as is frequently supposed, rent control does not eliminate price rationing. It is often argued that the reason why you have to adopt rent control is that you don't want the biggest dog to get the biggest piece. In other words, in the case of something as important as housing, you don't want to allow the vagaries in the marketplace to determine who gets what.

It is often presumed that if you impose rent control, then the poor have as equal a shot at the housing as do the rich. Well, I don't know on what evidence that argument is based but there certainly isn't any evidence that I have seen which would justify the position. We all have heard of key money, large security deposits, phoney offers to buy, bribes to officials and the like which in a wide variety of instances simply take the place of rent control.

Another perhaps less widely known phenomenon is the fact that if rent control was in place over any period of time the rationing process takes quite a different form, in the sense that you attract into the market people who are quite prepared to engage in illegal activities to extract higher rents. That is to say, if you have buildings in a market which is rent controlled and the landlords who are there now are generally the law-abiding people who don't want to engage in extralegal activities, and you have another individual who doesn't mind engaging in extralegal activities or ones which are close to being extralegal, the rate of return from investing in that building for the guy who is willing to undertake illegal activities is quite a bit higher than it is for the guy who is law abiding.

So there is quite an attraction for that kind of individual to come into the rental market and take advantage of the relatively high yield that he can on his money. The value of buildings is depressed by the rent controls and so it is an easy buy-in. He can then use whatever devices he feels necessary to extract a rate of return on that money. The property management techniques of that sort of landlord is, perhaps, not something that we would want to talk about.

That sort of covers the waterfront in terms of the economic aspects of rent controls themselves and why you would or would not want to have them in place.

**Mr. Chairman:** Mr. Walker, I wonder if I might just interrupt here for a moment. Mrs. Campbell had a question earlier.

**Mrs. Campbell:** I waited until he finished.

**Mr. M. Walker:** I don't mind entertaining questions as I go along, because I will now move into a different area. If you would rather address your question now, I will certainly be happy to respond.

**Mrs. Campbell:** I would like to hear your whole presentation.

**Mr. M. Walker:** Very well. The final issue I would like to talk about is whether or not rent control is the best way of achieving what, in a wide set of circumstances, it is said to achieve. That is, is rent control a good way of going about trying to satisfy the housing conditions of the poor and are there better and cheaper ways to do that?

I think I have already indicated there's no evidence to suggest that rent controls are a particularly just or economically efficient way of subsidizing anybody. It is haphazard in the sense that it takes from all landlords, whether or not they can afford it, and it gives to all tenants, whether or not they need it.

It's on that basis that the Fraser Institute right from the outset has been suggesting that the real problems associated with the housing market are not housing market problems at all. They don't have to do with whether or not the housing markets are working properly or improperly; rather, they have to do with the income positions of some tenants. The problem should properly be regarded as an income problem. If that's the case, then it should be dealt with as an income problem and the way out of it is to provide low-income tenants with a subsidy.

In the case of BC we were able to construct a housing subsidy scheme for both tenants and landlords which by our estimation, if all other programs related to housing had been dropped, would reduce the net costs to the treasury by roughly 50 per cent. In our view it would provide appropriate coverage for the poor, guaranteeing them a minimum standard of accommodation without the enormous bureaucracy that currently is in place; and without the relatively enormous expenditure now being made on rent control or on various housing programs. I should add that that is also in the presence of rent control in the case of BC.

It is our view at the institute that a general subsidy—because we don't feel that you should give money to somebody and say, "You must spend this on housing,"—should make it possible for people to buy the appropriate kind of housing. If they

choose to spend it on something else, they should be permitted to do so, because in any event they will. Therefore, you might just as well set up your scheme to make it an across-the-board cash transfer which we feel makes the most sense if you are trying to advance housing for the poor. If that program is working properly, there's no need for any other kind of program.

One of the interesting questions that arise—it has obviously arisen in your minds—is what will happen at decontrol. Will there be a horrendous increase in rents? Will there be chaos? Will there be marchers in the street with placards demanding your resignations and so on? The answer, I guess, is probably yes. The other question is whether or not it will be justified. One of the problems with trying to figure out what will happen after decontrol is knowing what the circumstances are right now, in the sense of how much excess demand for housing there is and how many vacancies there really are and so on.

The difficulty is that the official statistics don't provide us with much guidance in that matter. If, for example, you look at the case of Vancouver, they did a survey to determine how many illegal suites there were. They have this "apartment universe" which they survey to find out how many vacant units there are and it dawned on somebody that perhaps they were not capturing all of the rental units in their sample. So they went out and, in a very small area, tried to ascertain how many illegal suites there were. They found out that if they included the illegal suites in the apartment universe, the apartment universe swelled by some 10 to 15 per cent, depending on which particular area they selected.

[10:15]

One of the real difficulties you have to deal with is the lack of good information. We simply don't know in a large number of cases how much vacant space there really is around. Before you can calculate what kind of a rent increase you would actually have upon decontrol, you would have to know what kind of a real vacancy situation there is.

If we assume that on decontrol all of the burden of adjustment will be borne by housing demand in the sense that—well, there are two ways for market to adjust. One is that supply increases and one is that demand increases or decreases. In the case of housing markets it is usually assumed that in the short run at least all of the adjustment will have to be borne by de-



mand. That is, if there is a shortage then what will have to happen is that people will have to reduce the amount of space they occupy. They will have to double up and they will have to move into basement apartments and so on because it is not possible in the very short run within a matter of months or so to increase the amount of rental accommodation on the market. That's normally what's meant when people say that the demand side has to do the adjusting.

If under those circumstances you decontrol, then all of that burden of adjustment will have to be borne by the demand side. Under those circumstances, in the case of Vancouver, which is not dissimilar to Toronto except for the central part of Toronto, which I understand is quite different from the Vancouver setting, I found you could calculate a range of rent increases that would be associated with decontrol that ranged from 11.5 per cent to 19.5 per cent.

That is a fairly wide range, but that range of increases would bring you, after decontrol, to a situation where the rental market was about in balance and there would be no further tendency for rents to rise. The range of values that I calculated come out of different assumptions about population growth, real income growth and the extent of housing growth already in place, because there is a certain amount of housing supply already under way in the housing market which will take up some of the slack.

It's possible on the basis of the formulas and so on that I have presented in my essay for you to do the same calculation for Toronto, if you have estimates of the various magnitudes that I have used in the various formulas. It doesn't really require a very sophisticated analysis to make that calculation. I would suggest that the technical people could be asked to make that calculation for you.

I think that's all I would like to say. Perhaps I should comment briefly on the only experiment that has ever been conducted and monitored on rent decontrol. That was in the United States following the Second World War. The difficulty with economics always is to get evidence or get documentation of events as they occur. In the particular case of rent decontrol in the United States after the Second World War, what they actually did was to go out and measure rents before rent decontrol and then to monitor them as they were decontrolled. We have a fairly good fix on what actually happened after the decontrol occurred.

I'm currently involved in a bit of a wrangle with a person in the journal of the Canadian Council on Social Development about what these numbers actually mean. What I think it amounts to is that you can come up with a rent increase following decontrol that ranges anywhere from 11.5 per cent to about 20 per cent. While 20 per cent sounds like quite a bit, we have to remember that that was against the background of a general price level increase in the US of 32 per cent over something less than three years because of the general inflation that followed the Second World War.

I think the evidence that there is from the US would lead you to be quite optimistic about what will actually happen if you decontrol. Similarly, my calculations for Vancouver would lead you to be fairly optimistic about what would happen upon decontrol. On the other hand, it is not clear how relevant the information from the US is for current Canadian difficulties nor how relevant the Vancouver information is for Toronto. I will have to leave that to your technical people to assess.

I think that is all that I would like to say by way of summarizing the work we have done on rent control. There is obviously a vast amount of literature I could comment from but the difficulty is knowing what the interests of the committee are. I would rather find that out by your questions.

Mrs. Campbell: Mr. Chairman, I have some difficulties with Mr. Walker's statements. Probably because I am a pretty simple person, I don't understand his definitions. He has talked to us about the poor. Could he tell me who the poor are, having in mind that in the city of Toronto a family of four living on \$12,000 a year are living below the poverty line? I would like to know: who are the poor we are talking about? I thought this government, certainly the party I represent, was dealing not with demand but with need, which is a very different connotation from that which Mr. Walker presented.

I don't think anybody was saying—certainly I wasn't flying on some high philosophical position—that we were trying to equate housing so that the poor and the rich would have the same opportunities. We were trying to figure out a way so that people generally, including the upper middle-income people in this area, could live. It seems to me that there is a difference in definition.

Lastly, I get the same statements about the counterproductivity of rent review, but I really don't follow down the road on that. If, for instance, you could assure me that by



removing rent review we would increase the housing stock, then of course I am very happy to follow. But those definitions it seems, to my mind, are key to the issue. If you could tell me who the poor are, that would be a start.

The other point is that it seems to me that if you are going to have direct subsidy to people up to and including middle-income people, I don't know how that is going to discourage people from looking to more space—which is one of your arguments about rent review.

**Mr. M. Walker:** First of all, who are the poor? That is a very sage question; and I am not sure I have a sage answer for it.

I think we are all driven at one time or another to make arbitrary decisions about how we classify people for various reasons. I think whether you pick the bottom fifth or the bottom sixth or the bottom ninth of the income scale and call them poor, with certain qualifications, doesn't really matter. I think perhaps it is the business of legislatures to reflect the public view of what poverty is. That is a very difficult task because, of course, you can't treat somebody who is making \$12,000 in the very early stage of their life cycle in the same way as you can treat somebody who is make \$12,000 in the very last stage of their life cycle.

So there is a very great imperfection in the way in which we measure people's relative affluence. There are all kinds of people who are classified by the economic council or Statistics Canada as being below the poverty line but who own fairly substantial housing. That, I think, reflects a very severe weakness in our measurement techniques, in that we don't try and isolate people according to the stage they are in in their life cycle.

So I guess in answer to your question, "Who are the poor?" I think that has to be a question to be determined ultimately by legislatures, as reflecting the general will. From a technical point of view we can make a variety of arbitrary statements about who the poor are, but I am not sure that they are that useful.

From the point of view of our exercises in Vancouver, in trying to determine who should get income subsidies we took rather a different route. We said, "Let's determine a basic housing standard that people should be able to afford and then classify as poor anybody who has to spend more than some fraction of their income to acquire that particular housing demand." In that way you don't make an arbitrary choice about who is poor and who is not poor; you make

the arbitrary choice on how much you are going to insist that people contribute towards their own housing standard. I think in some sense that is a happier arbitrariness than is the other and one that is perhaps easier to live with.

I know I haven't answered your question, but I think I have indicated to you—

**Mrs. Campbell:** I knew that before you started.

**Mr. M. Walker:** —how you think you might be directed if you are trying to cope with the difficult problem of ascertaining housing need.

Your distinction between demand and need is of course one that has populated the pages of popular journals for years and years, and, indeed, the pages of technical journals for years and years. But the fact of the matter is that in economic terms what we have to look at is demand as reflected in the marketplace. There is an infinite number of needs that one can identify. Some people say they need to have a trip to Florida every year; some people need to have a large car; people need to have a variety of things. But when it comes down to the final analysis they have to make choices about which of their needs they are going to satisfy.

Since there are an unlimited number of needs or wants that one can identify, the only effective indicator of what needs really are is when those needs get translated into demands in the marketplace. Some people, even people with fairly modest incomes, translate their needs into decisions to buy frozen food products, ready-made meals and all those things, which you and I would find quite illogical in our circumstances. Similarly, people choose to translate their need for housing into quite low demand for housing, or quite high, on the basis of their income. There are a lot of people in this country, I would think, who are house-poor in the sense that they make a decision to buy a house when you or I wouldn't, because we value more highly the other things we can buy with that money.

It is a very dicey matter to try to discriminate between what a demand is and what a need is. I think we can only rely on people's choices in that regard—how they actually make those choices in the marketplace.

I am struck, however, by the fact that if the average person—in your comments you said your objective in putting in rent control was to ensure that the average person could afford rental accommodation. On the

basis of our statistics, one is always struck by how often the number of people who can actually afford housing is actually exceeded by the number who succeed in owning. If the average person in Canada can't afford rental accommodation and can't afford housing, then who is providing the pressure for housing prices to rise by paying the money that is required to be paid for that housing, and who is forcing rents to rise? If nobody was willing to pay the rents that are demanded or the price for housing that is demanded, then housing prices wouldn't rise. It's as simple as that. I think one has to be fairly careful in judging the condition of the average house.

[10:30]

As far as the function of rent review goes, I would regard rent review as another aspect of the impediments that are faced in the marketplace by somebody trying to provide a service. That is not to say that they are justified or unjustified, but rather that they are simply another impediment and have to be acknowledged as such. The net effect of putting in an impediment in a market will always be to reduce the supply relative to what it otherwise would have been. As an economist, I can quite confidently say, without making a value judgement as to whether or not rent review is a good thing or a bad thing, that rent review will produce a reduction in the supply of housing accommodation, other things being equal. They were your three questions. I don't know if you have more.

**Mr. Campbell:** I don't want to monopolize this, but out of that I don't think I said we brought it in for the average. We were looking at all of the people who had need. What I did say was that I didn't think it was brought in on a philosophical basis of having the poor able to compete in the same market as the wealthy. I think what we wanted to do—certainly what I was looking at—was to enable people to live at whatever level. I was just indicating that perhaps the level of those who would be within your subsidy situation could be quite high in this area.

The thing that bothers me about the counterproductivity argument is that it always seems to come to us in isolation. There were other factors which caused people to stop building and stop providing the service before we had rent review.

As far as I know, those are still prevailing, and that's where I have a problem.

**Mr. M. Walker:** I would like to add a supplementary comment to that actually. It

is quite true that there are a variety of other aspects in the marketplace besides rent control. I think that right now those particular factors are actually clouding the effects of rent control.

It has been often said to me at public gatherings: "You predicted that this and this and this were going to happen as a result of rent control. It hasn't happened. You are wrong. Why don't you recant your position?" The fact of the matter is that since rent controls have been adopted in various jurisdictions there has been a very substantial subsidy program put in place by the federal government, which has totally swamped any effect that rent control might have had in the short run.

I think the end result in the long term, because it is now no longer profitable for any private capital to come into the housing market in Canada unless it is subsidized, will be either quite a horrendous bill in terms of continuing public subsidies to housing or a tremendous slump in housing production. I quite agree that there are a whole variety of other phenomena occurring in the marketplace and we can't simply pretend that rent control happens in isolation.

On the other hand, what you are trying to do presumably here is to find out what contribution rent control makes to that whole pastiche of things that are affecting the housing market. Although those other things are there, we have to try to shelter our minds momentarily from those other things and see what the unique contribution of rent control is to the ongoing circumstance.

**Mr. Williams:** Mr. Walker, you've suggested or stated in your testimony that you felt the cost of a government program that would give some degree of support and protection to tenants could be halved if we move from the now traditional rent control posture to one solely of subsidy to landlord and tenant. I am wondering if you could elaborate a little further on what criteria you would apply in that type of situation or develop more your argument with regard to subsidy. Is this totally conjecture on your part or has the government in your province moved in this direction in lieu of a rent control program? What criteria could one use?

You mentioned that landlords as well as tenants should be entitled to subsidy. That was another interesting observation. Could you elaborate on these matters?

I don't know how conversant you are with the comparative systems—with Ontario's compared to what BC's has been—but I suspect



you are probably more conversant with the comparatives than we are, and I'm just wondering if you could highlight what the basic differences might be between what the BC system has been and what the Ontario system has been and what the obvious weaknesses and strengths of the two systems have been. Maybe that's a big ticket to fill, but perhaps if you could touch on those matters they would be of interest.

**Mr. M. Walker:** On your first point, if I seem to suggest that there should be subsidies to landlords and tenants I apologize for that. What I was really trying to indicate was that rent control amounts to a tax and a subsidy. The tax is levied against the landlords and the subsidy is paid to tenants, because landlords are not permitted to receive the money which they would have received if rent control hadn't existed and the tenants receive that money in lieu of the landlords. So I wasn't meaning to make that suggestion. As for the program that we have actually suggested—

**Mr. Williams:** I'm sorry, but didn't you suggest if there was simply a program of subsidy in lieu of that that the cost of government would be at least half?

**Mr. M. Walker:** Yes, I did indeed. That relates to our suggestion in the case of British Columbia. What we did was look across the whole gamut of government expenditures, and, of course, rent review is only one of in some cases hundreds of programs that directly or indirectly affect housing markets. We examined all expenditures and all subsidies by government to the housing sector and asked whether or not in each case they were doing the job they were intended to do. I think the job they were intended to do depends very much on your orientation, because in some circumstances it's quite obvious that their intention was strictly political and the designation was not along purely economic grounds at all.

In any event, what we did was to say let's suppose we eliminated, for example, the grants to property owners to help them afford their housing costs and also the grants to tenants and the grants that accrue to people because they are of a particular age or in a particular stage of infirmity. If we took all those grants and said all of those grants are in one way or another intended to provide people with housing, with accommodation, let's simply strip all of those out of the budgets of the various departments, put them all together and see what kind of a lump sum we have, and we came up with some number which I have now forgotten.

We then asked how much it would cost if we went out and singlemindedly said we were going to subsidize the provision of housing accommodation to these people on a direct basis to them, and we were going to do so along the grounds that I have already outlined, in the sense that you would want to make sure that people can afford a basic standard of accommodation and that to do so they do not have to use up any more than say 25 per cent of their incomes.

If you did that, if you put in such a program, you would in fact save roughly half of the moneys that are currently being expended on the various programs. The reason for that is that again, as in the case of rent control, a lot of the money that is being shipped around isn't going to the target group you want it to go to. It isn't going to low-income tenants, it's going to fairly high-income land owners and tenants. So what we were essentially saying was that if you narrowed the scope of your program to suit only those people who need it then you could save roughly 50 per cent of the total costs of subsidy.

I have to confess virtual ignorance of the rent review process in British Columbia. As I was pointing out to somebody before, 10 books have gone under the bridge since I wrote my first book on rent control. One obviously can't keep up on all the developments in every field and, having said my piece on two different occasions, I have simply allowed my contact with rent review to lapse.

You may not be aware, or maybe you are aware, that the whole situation has been changed recently in British Columbia. A new act was brought in last fall and as of April 1, effective on August 1, the rent control process does not apply to units that have a rent of greater than \$400, as opposed to \$500 under the current regime; so, in fact, rent decontrol has begun in British Columbia. It's viewed to be a staged-in decontrol process and won't come about automatically, but will only occur at the pleasure of the cabinet.

I think that's all I would like to say in comparing British Columbia and Ontario. I think your technical people probably can do a much better job than I can in terms of simply comparing the legislative provisions, given that I'm not that familiar with them.

**Mr. Williams:** Just two further points. I understand they've had an administrative tribunal type of operation as part of the mechanism for dealing with the rent review program in British Columbia. What are the



powers that are given to the administrators? Is it a single individual who usually sits on hearings?

**Mr. M. Walker:** As I say, the regime has been changed recently. As you know, we had a rentalsman and we had rent review commissioners who were empowered to hear cases that were advanced to them for review, which I think is essentially similar to the situation you have here. But I'd really rather not comment on the situation so as not to give you misinformation.

**Mr. Williams:** The changes have included administrative changes too, then.

**Mr. M. Walker:** That's my understanding of it.

**Mr. Williams:** I see. Does the present system involve a percentage factor as to a maximum or minimum figure that takes one in or out of the control situation?

**Mr. M. Walker:** There is a percentage rent control figure still in force, yes; it's seven per cent?

**Mr. Williams:** Is that being used as a minimum base or a maximum base?

**Mr. M. Walker:** Again this is all subject to sort of anecdotal evidence, because one of the real difficulties with housing markets is a lack of information, which is why I propose in here that any decontrol scheme really ought to include pretty great enhancement of our information about the housing market; I think a lot of our decisions are made on the basis of faulty information.

In British Columbia we are now in a situation where rental markets are in excess supply, and in fact a large number of landlords have difficulty in acquiring the percentage increase that's provided under rent control. It's a situation which was quite predictable, given the excessive expansion of housing production that was coincident on the adoption of the AHOP and the ARP programs in the province.

Essentially the situation now—at least this is my understanding—is that a lot of landlords are having some difficulty in acquiring the seven per cent. In fact, the seven per cent may be acting as a kind of a collusive device, because it tells all the landlords in the market what kind of a rent increase they should be going for; as a result, it acts as a kind of floor and not as a ceiling.

**Mr. Williams:** You mentioned the definition of luxury accommodation, I guess, was \$500 or more for apartments and now it's dropping to \$400 under the new legislation.

**Mr. M. Walker:** I guess luxury perhaps was the rationale for setting a ceiling in the first

place. Their intention is to reduce the ceiling—

Interjection.

**Mr. M. Walker:** What will happen is that each time they reduce the ceiling and broaden the exemption over time, the marketplace will in fact move up and through the ceiling so that you will have an eradication of control by a sort of natural process.

[10:45]

**Mr. Williams:** Does it work at the other end in the sense of exempting the smaller landlords, say the owners of four-plexes or six-plexes? Is there any exemption tradition?

**Mr. M. Walker:** Down to duplexes. That's the way it was under the old regime. It was down to duplexes.

**Mr. Williams:** Duplexes only were exempt but anything above that, a four-plex or a six-plex, was included in the program.

**Mr. M. Walker:** That is my understanding.

**Mr. Chairman:** Mr. G. W. Walker is next and then I think that that should conclude the questions of this witness.

**Mr. G. Walker:** Sweden is always cast as an example in many other areas. They have had an experience in rent control. Their temporary rent controls were put on in 1933 and came off about two years ago. That was under a socialist government. You would not only expect that they would be more inclined towards keeping them than not keeping them. What brought about that?

**Mr. Duszta:** Did you say 1933?

**Mr. G. Walker:** That was my understanding. Was it 1934? I stand corrected.

**Mr. Breithaupt:** They kept them for only 40 years.

**Mr. G. Walker:** They were temporary though. Why would that come about?

**Mr. M. Walker:** First of all, the ones that were recently abolished were actually enacted in 1945. The Swedish housing experience is very interesting. The fact that we haven't studied the Swedish housing situation more carefully is going to redound to Canada's great disbenefit because 15 years ago, they went through precisely the same kind of spasm we are going through now with subsidization to various kinds of housing and so on.

What essentially happened in Sweden was that there arose over a period of time things called housing co-operatives where the rental accommodations were actually owned by the tenants themselves and were similar, I guess, to our condominium arrangements in Canada. Nevertheless, those buildings which were

owned by the tenants' organizations themselves were subject to rent control.

The bloc of individuals or co-operatives who own these various rental accommodations form a fairly substantial political bloc in the Swedish sociological landscape. The fact of the matter is that a lot of the co-operatives found themselves with large apartment suites, one with three and four bedrooms and so on, which were built on the expectation by the government that people were going to have large families. It seems like a good thing to have large families, so they built large apartments.

When these co-operatives found themselves in the situation where people weren't having large families any more, a variety of very strong economic pressures arose on these co-operatives because they found they couldn't rent the accommodation they had. Furthermore, under rent control they couldn't increase the rents to cover the losses which were otherwise accruing to the co-operatives. In the event, what happened was the tenants' group put a very substantial pressure on the government of the day and succeeded, in a very large number of instances across Sweden, in actually having the rent control ordinance appealed.

It was simply economic pressure. It was no great mystery at all. You mentioned they were socialists, but even socialists have to work with a balance sheet. In fact, they found the balance sheet simply didn't add up. It is a very interesting case because it was tenant pressure that led to it.

**Mr. G. Walker:** I can recall some of the arguments in 1975 when the city of Toronto bill was before us on the question of rent control. We heard the arguments then about it leading to key money, under-the-table money and black-market money. What has been the experience in British Columbia with respect to that?

**Mr. M. Walker:** Again, it always has to be anecdotal. This isn't something that I can go out and actually identify. There have been incidents in other geographical areas where they have been actually able to quantify key money and that kind of thing because they have been able to provide a legislative or a legal way of transacting key money. In the case of British Columbia, it is my feeling that because of the widespread existence of small landlords, or landlords with only a few buildings, they decided simply not to go through the rent review process. Almost by common agreement between the tenant and the landlord, they simply said that they would stay away from

it; they would pretend it was there but would make their own arrangements as to what their rental arrangements would be. In other words, there may have been a fairly widespread avoidance of the provisions of rent review; but to the extent that people could get away with them, I think it was probably done by mutual agreement between landlord and tenant.

You know, the ingenuity of individuals to circumvent legislation of various kinds is simply astounding, witness the cases of key money. Then there are phoney options to purchase where the individual agrees to try and buy the apartment building in order to get the suite. There is a provision that when the option lapses, a certain amount of money changes hands. Then the individual gets the apartment in lieu of the building. There are all kinds of ways in which people can avoid rent control and I have no doubt that a lot of them have been tried. However, I believe the most prevalent practice is that of the small landlord who simply evades control altogether.

**Mr. G. Walker:** I have heard rumours, in some apartment cases, of \$1,800 crossing hands as a form of key money. Is that in any way likely or is someone just making up a story?

**Mr. M. Walker:** I simply cannot answer that question. In some ways this is the point that economists are always trying to make; that the market is always there. Key money is just a reflection of a black market. If you impose legislation which says you are not allowed to operate out in the daylight, people will find other ways of operating.

People who were moving into Vancouver two years ago when the situation was fairly tight were faced with the situation where individuals were occupying a lot more space than they really needed. A guy with a family is coming in, perhaps his company will pay the tab for key money. I can imagine circumstances under which that could actually occur, but I can't document it and therefore I can't talk about it.

In cases like New York, Paris and London, key money has been well documented. I can in fact talk about that. I can't talk about key money in the case of British Columbia because there is no hard evidence, so I would rather not talk about it. Certainly, the opportunity for key money existed, but we cannot document it.

**Mr. G. Walker:** There are a number of American jurisdictions that have had some form of rent control in the past. I guess it varies from state to state, or even from



municipality to municipality. Are there jurisdictions now that have a rent control similar to Ontario's?

**Mr. M. Walker:** The US situation is providing a very rich laboratory for economists at the present time. It ranges from Berkeley, California, for example, where on a public plebiscite they recently actually rejected rent controls as an option. I think that essentially what happened is that the landlords and other vested interests, who obviously don't want rent control, went to great efforts to explain their position to the public.

The public in Berkeley, California, incidentally, is not your average public. It tends to be a fairly intelligent and intellectual establishment kind of group, but also a group which is quite far left in terms of the political spectrum. I think what happened there is that the landlords were able intellectually to show that rent control simply doesn't make any sense in the interests of the tenants. A lot of those tenants are, of course, familiar with situations which developed in New York and elsewhere. In fact, they just rejected rent control by a 70 per cent vote.

A similar situation emerged in the case of Madison, Wisconsin, which is the same kind of university community. In another case, Lynn, Massachusetts, rent control was actually in force and was rejected by a vote of the municipal council.

New Jersey has a variety of rent control provisions but I think that one of the big differences is that judicial review of rent control is still very much available. If a landlord is faced with a situation where he thinks he has been hard done by, he can actually go to a court and the court will rule as to whether or not the provisions have been just or unjust. In fact it will award, in the same way as in civil litigation, a particular judgement to the landlord.

Unfortunately it will probably be too late for your deliberations, but we are in the process of doing a comprehensive study of rent control in the United States. It does provide this rich range of rent control stances, from outright rejection of it to municipal control to state control. It is also interesting, incidentally, that the government of California has rejected the possibility of getting involved in rent control on a state-wide basis, whereas in New Jersey I think there is a move towards that situation. Virtually every option you would want to think about is being tried in the United States, and in due course we will have some analysis of that situation. Right now that information isn't complete.

**Mr. G. Walker:** Do you know of any place in North America where rent control similar to the Ontario example is working?

**Mr. M. Walker:** My honest answer would have to be no, I don't. I don't think rent control works.

**Mr. Duksza:** That is an ex cathedra statement, I take it.

**Mr. M. Walker:** No. I think it is a statement based on a variety of evidence not just from North America but from around the world.

**Mr. Duksza:** If we get into that it will take me half an hour to refute some of the things you have said, so we had better not get into it.

**Mr. Breithaupt:** Please, let's give him that opportunity.

**Mr. G. Walker:** You wouldn't want to miss discussing the rental market in Cairo, where they have no control. They always bring that up.

**Mr. Makarchuk:** The housing in Cairo has no control at all.

**Mr. M. Walker:** Don't forget that the background for all this discussion ought to be that Canada has probably the highest standard of housing in the world, and that we didn't get here by a process of rent control. It's too easy to forget that it was the competitive market, the free market, that provided the housing we are now controlling. We didn't get a high standard of housing because government controlled rents or did anything else. We got it because there was a buck to be made in providing housing, and as long as there continues to be a buck to be made, housing will be—

**Mr. Duksza:** In the name of Milton Friedman, I bless you all.

**Mr. Makarchuk:** I have one question: Can you tell me the difference in rent between, say, Saskatoon, Lethbridge and Edmonton, compared to other cities in Canada?

**Mr. M. Walker:** If you want to compare a place where population is falling, like Saskatoon, and, say, Vancouver where population is growing at two or three per cent a year—

**Mr. Makarchuk:** No, no, that's nonsense. The population in all three centres is going up.

**Mr. Williams:** You're asking for facts and you are not prepared to listen.

**Mr. Makarchuk:** Let's have the answer. Why are the rents lower over there in those three cities?

**Mr. M. Walker:** People are moving out.



**Mr. Chairman:** There is a question for Mr. Walker.

**Mr. M. Walker:** Which question am I going to answer? As I have already said, there are more factors impacting the housing markets than simply rent control. It is well known that in Saskatchewan generally the population has been relatively stable, or declining, for years. That among other things explains why they have a different kind of labour market than we have in Ontario currently, or in Quebec, or in British Columbia. To say the reason why rents there are different from those anywhere else is simply because of one factor or another is naive. I think a large reason for it is lack of demand.

**Mr. Makarchuk:** For the benefit of the committee, when we asked the same question of the Ottawa Social Development Council, and there were people there from Central Mortgage and Housing Corporation, they pointed out the fact that the reason rents are lower there is because they have public land banks and the land component cost of housing is a lot lower.

**Mr. M. Walker:** Oh, come on.

**Mr. G. Walker:** Do you believe everything CMHC says?

**Mr. Makarchuk:** I would rather believe them than him; and let me tell you, I am very dubious about CMHC.

**Mr. Rotenberg:** Even if they're right, it has nothing to do with rent review.

**Mr. Williams:** You weren't even here to hear his whole presentation.

**Mr. Makarchuk:** I've read about Adam Smith somewhere before.  
[11:00]

**Mr. M. Walker:** It has nothing to do with Adam Smith. If I may be permitted to answer the question that has been asked here about land banking in Saskatoon, the fact is that if you would care to read the analysis by Professor L. Smith of the University of Toronto, you will find that the only thing land banking succeeded in doing was giving the first purchasers of land, under the land bank, a fairly substantial profit. Exactly the same thing happened in Ontario under the Assisted Home Ownership Plan, which you should have more familiarity with. The fact is as soon as the first purchaser of the land got the land, he turned around and sold it after the period of grace expired and acquired the normal profit from holding that land. That, incidentally, has nothing to do with the rental situation because in most instances it only applies to private ownership of the land.

**Mr. Makarchuk:** That's not what the CMHC said.

**Mr. Chairman:** Mr. Walker, thank you very much for stopping off on your way to, is it Montreal?

**Mr. M. Walker:** No, I have just come from Montreal.

**Mr. Chairman:** Thank you very much. We appreciate your time.

**Mr. M. Walker:** Thank you for the opportunity.

**Mrs. Campbell:** It's nice to have you in our province.

**Mr. Chairman:** The next two witnesses, Mr. Burton and Ms. Swords, are here and ready.

I wonder if the members of the committee could help me on something here. As you know the New Democratic Party members of the committee had a press conference earlier this morning. Both Mr. Duktza and Mr. Warner did ask me if they could make two motions. They are prepared to have these motions discussed later in June.

**Mr. Duktza:** One can be tabled, one discussed.

**Mr. Rotenberg:** Mr. Chairman, as a matter of order, at the meeting today we have a lot of people here. And, with respect, our program is to have motions after we hear all the people. If a member wishes simply to table a motion, run off a copy and table it and hand it out, fine, but I don't think it's fair to the people who are here on the schedule we have adopted to allow anybody to have debate on motions.

**Mr. Duktza:** Mr. Rotenberg, excuse me, I want to move a motion and also table a report. I am quite willing for the chairman to adjourn the debate on the first motion until the time comes for us to make decisions. I said this already. Mr. Warner will move an immediate motion which we will have to deal with. It will have to be discussed for a short time. When he moves that motion, you will see that we have to deal with it almost immediately.

**Mrs. Campbell:** Could we inquire is Mr. Warner's motion a procedural motion?

**Mr. Duktza:** It's procedural.

**Mrs. Campbell:** If it's a procedural motion—

**Mr. Williams:** On a point of order, Mr. Chairman—

**Mrs. Campbell:** I would think that that's in order.

**Mr. Williams:** Mr. Chairman, with respect, I think we are totally out of order here in

abandoning our agenda. The NDP members didn't have the courtesy to attend to hear Mr. M. Walker's presentation. They were busy giving a press conference upstairs.

They want to use the mechanism for introducing their philosophy and press release into this meeting, disrupting the hearings. I think it's totally inappropriate, Mr. Chairman, and offensive to the committee process and practice in the past. I think we should discount this procedure right here and now and get on with the deputations that we have scheduled to hear.

If they want to make further press statements and comments about their party position, they can do it out in the corridor, not here during the committee meeting. We are here to hear the people not to hear philosophical statements from the NDP.

Mr. Warner: Mr. Chairman, on a point of order.

Mr. Chairman: Is this on a point of order?

Mr. Warner: A point of order. Since Mr. Williams clearly does not understand the rules of the Legislature, I would direct him to rule 76. "It shall be an instruction to the committee of the whole House to which bills may be committed that it has the power to make such amendments therein as it sees fit, provided they be relevant to the subject matter of the bill; but if any such amendments shall not be within the title of the bill it shall amend the title accordingly and shall report the same to the House."

All right, we have before us a matter referred from the Legislature to this committee. Any motion is in order provided it's in keeping with the spirit of the matter which is before the committee and that's precisely what's being done here. And for the third time I will repeat, what will happen now as a privilege of any member of this committee is that a motion will be made, it will be moved that it be adopted, and then set aside to be dealt with at a time which is mutually agreeable to all members of the committee, obviously to be decided before June 15, the date upon which we must report back to the House and thereby not interrupt the proceedings which we have.

Mr. Williams: You are interrupting them right now.

Mr. Warner: It's unfortunate that some members of the committee don't understand the rules of the House but they are very clearly spelled out and perhaps some people could take time to read them.

Mr. Williams: I raised a point of order, Mr. Chairman, and I would like you to rule on it.

Mr. Chairman: On the point of order, Mrs. Campbell.

Mrs. Campbell: The matter was put to us that there was one motion to be tabled and one to be debated now. Are the NDP prepared to take the position that they're going to cut off some of the people who are here and are coming—

Mr. Warner: Of course not. I'll sit as long as needed.

Mrs. Campbell: You know, I don't think we can start at 8 o'clock in the morning and go through until midnight—

Mr. Warner: Mr. Chairman, the point of order has been raised. As a member of this committee, I feel I have the privilege to put before the committee a motion at any time the committee is sitting, provided that motion is relevant to the issue at hand. That's clearly spelled out in rule 76 of the standing orders of the House. I'd ask that the chairman rule on the matter. I would think, just by the way, that the whole business will take all of 10 minutes. It would have been done by now if we hadn't had the interruptions.

Mrs. Campbell: The interruptions were yours, not ours.

Mr. Chairman: We're blessed on this committee by having with us a chairman of the committee of the whole House, David Rotenberg, who two weeks ago clarified a motion for this chairman at least that he still doesn't understand. Could you help on this one?

Mr. Makarchuk: Mr. Chairman, a motion is a motion. In committee any member can put a motion and it has to be dealt with. I don't see where the argument is or what it involves. When the motion is put, it has to be dealt with. So let's proceed with the business of this committee.

Mr. Williams: By what we're going through, we're denying the public that have come here today with certain time schedules to be heard. To have the NDP interrupt the proceedings I think is totally inappropriate.

Mr. Rotenberg: With some regret, I would have to say in my opinion that if a member wishes to put a motion at any time, a member can put a motion. A motion would be in order, if a person wishes to put such motion. That is a technical point of order. However, I thought there was some agreement on this committee that we had an agenda of people to hear. If certain members of this committee feel that their motion which is being put for, I can only use the word, propaganda purposes in the middle of our hearings and deny the people the right to speak and keep them waiting, that is their privilege. The



public who are here and the public out there will have to decide who is really interested in hearing the people and who is interested in making propaganda.

If I was chairman of this meeting, I would have to rule that a motion is in order to be put and let the chips fall where they may.

**Mr. Chairman:** I think all members of this committee, including the NDP members, are conscious of the fact that we do have quite a long list of witnesses today. But I will entertain the motion and we will proceed with as much as we can.

**Mr. Dukuza:** I read very, very fast. Now I will distribute our motion. Also I am tabling a report which the member for Scarborough-Ellesmere will give out to you. I will read the motion which is in three parts, but a very fast five pages.

I move, with regard to the rent review act:

"A (i) Coverage: Rent review should cover all residences (including mobile home sites) except for seasonal or temporary residences, co-operatives and residences for which rents are geared directly to the incomes of the tenants.

"(ii) New buildings: All buildings should be covered by the program regardless of the time of construction or first occupancy as residential premises. Every new building should apply to rent review to establish a fair rent, which would cover costs plus a moderate rate of return.

"(iii) Guideline: The guideline system should be retained with the guideline to be adjusted annually to reflect actual increased or reduced costs for standard items in typical rental units.

"(iv) Annual building or project hearings, uniform anniversary dates and rent equalization: There should be a uniform rental anniversary date for buildings or projects and building or project hearings. This would facilitate the gradual elimination of historical differences in rent for identical units.

"(v) Rent registry: Copies of all rent increase notices should be first filed with the program to be incorporated in a rental registry containing the rental history and legal rent for all units.

"(vi) Financing costs and financial loss: The rent review program should be neutral as to how a building is financed—financing costs other than interest rate charges should not be included as cost passthrough items or in calculating financial loss. Landlords who were experiencing a loss at the time of the change in legislation should be allowed a one-time-only application to rent review to

eliminate the loss within six months of the change in legislation.

"(vii) Maintenance costs: Maintenance costs required to bring a building up to minimum standards should not be passed on to tenants in rent review. Maintenance expenditures should be verified to ensure that the work was actually done. Interest charges on money borrowed for amortized expenditures should be allowed only on the unamortized portion—as the law now stands, tenants could be paying interest on expenses that have since been written off. Finally, the general level of repair in a building must be considered to be part of a landlord's contractual obligation to a tenant so that a reduction in maintenance levels is considered the elimination of a service under the act and thus cause for a reduction in rent.

"(viii) Procedures and rules: Procedures and rules followed in administering the program should be set out either in the act or its regulations. This should include legislative protection for a tenant's right to examine and photocopy all material relevant to a hearing.

"(ix) Reasons for decisions: The 'reasons' submitted to the tenant and landlord in conjunction with the order should reproduce that calculation.

"(x) Notice: The period of notice of rent increase should be the same in the rent review act as it is in the Landlord and Tenant Act, which is 90 days."

Second section of motion: "Landlord and Tenant Act.

"B (i) Security of tenure: The basic security of tenure provisions in the act should not be changed.

"(ii) Standard lease and forms: There should be a standard form of lease set out in legislation or in regulations which set out the basic responsibilities and rights of tenants and landlords. In addition, other commonly-used forms should be standardized in legislation to ensure that they do not obscure the rights of either landlords or tenants.

"(iii) Right to quiet enjoyment: A tenant's broad right to quiet enjoyment of the premises should be set out in legislation.

"(iv) Writs of possession for landlord's use or major renovations: The law should provide for tenants' compensation and fines for landlords who make fraudulent use of discretionary reasons for eviction.

"(v) Maintenance: For individual unit repairs where the value of the repair is less than one month's rent, the tenant should have the right, following official notification of the landlord and a suitable waiting



period, to obtain at least two independent estimates, have the work performed and deduct the cost from the rent.

"For high-cost repairs on individual units and repairs on common elements, the remedies available to the court or its equivalent under the Landlord and Tenant Act, should include: an order for compensation to tenants; an order that work be performed; and, in extreme cases, an order to have the work performed directly at the instruction of the tribunal and redirect payment of rent to the commission to cover the cost.

"(vi) Right of tenant to early termination of lease: Parallel to the landlord's right to early termination, under certain circumstances tenants should have the right to terminate the lease on appropriate notice where: the tenant is moving out of the municipality; there has been a material adverse change in the tenant's financial circumstances; the landlord has persistently breached his obligation to repair under section 96 of the Landlord and Tenant Act or the tenant's right to quiet enjoyment; or the tenant has been accepted for geared-to-income accommodation.

"(vii) Posting of landlord's name: The name, address and phone number of the current owner, as well as that of the manager responsible for the building, should be posted in the building and supplied promptly to every tenant.

"(viii) Mobile homes: Landlords should be required to compensate mobile home tenants for moving costs and find a reasonable alternative site when they obtain a writ of possession for their own use, a change of use or for major renovations, or where the action taken by the landlord is punitive or frivolous.

"(ix) Eviction for non-payment of rent and arrears: If the creation of the residential tenancies commission as set out in section C below does not solve the problems experienced by small landlords in particular in obtaining possession for non-payment of rent and in retrieving rent arrears, we would propose changes to the legislation concerned to facilitate the exercise by landlords of these rights."

This is the third portion of the motion: "Administration of the residential tenancies commission.

"C(i) Jurisdiction: The tribunal should have exclusive jurisdiction over Part IV (residential tenancies) of the Landlord and Tenant Act and the rent review act. It should form the appeal level in the enforcement of the municipal housing standards and it should have

small claims jurisdiction over cases related to rent."

Mr. Rotenberg: Can we dispense?

Mr. Duksza: No.

"(ii) Procedures: Procedures of the tribunal will be subject to the Statutory Powers Procedure Act."

Only one more page, Mr. Rotenberg.

"(iii) Appeals: On jurisdictional points of law only, appeals would be to the divisional court.

"(iv) Composition: The tribunal would operate on the model of the labour relations board with three members hearing each case—a landlord representative, a tenants' representative and a neutral chairman.

"(v) Operations Information: The function of the commission would be the equivalent of the clerk's function in county court, ensuring that applications are correctly made and that applicants are appropriately referred. It would also serve as a public information arm of the tribunal.

"(vi) Mediation: Rent review applications and Landlord and Tenant Act applications other than for eviction would be referred first to commission staff whose function would be to evaluate applications, hear submissions from landlords and tenants and suggest areas of potential agreement given the law, policies, regulations, et cetera. Where agreement is possible, or where the application is uncontested, an order equivalent to a consent order would be made. Such an order would be at least as detailed as the reasons for a decision required for final judgements.

[11:15]

"(vii) Adjudication: Where agreement is not possible, those areas in dispute would be referred to the tribunal for hearing. Orders of the tribunal would be final and binding, subject to appeals as outlined under paragraph iii above.

"(viii) Powers of enforcement: In addition to powers now available to the court or the rent review program, the tribunal would have the power to instruct a landlord to make a rent review application; to maintain the rent registry; to initiate actions to investigate complaints; in general to police the legislation in its jurisdiction; and to order repairs and the redirection of rent to the commission:

"Two bureaux would be provided for by the commission. One would serve landlords; the other would serve tenants. Their responsibilities would be to provide information, advice and assistance as needed at each step of the system."

I move that this motion be adopted.

**Mr. Rotenberg:** I move that the debate be adjourned until all the deputations have been heard.

**Mr. Chairman:** Is it agreed?

**Mr. Warner:** Yes, and I think what the intention is—

**Mr. Rotenberg:** That is a non-debatable motion.

**Mr. Warner:** —if you have it now—

**Mr. Rotenberg:** That is a non-debatable motion.

**Mr. Makarchuk:** Wait a minute!

**Mr. Rotenberg:** He is debating my motion. My motion is not debatable.

**Mr. Makarchuk:** There's a difference and, as a chairman yourself, you're pretty sloppy in your work. There's a difference between a motion to adjourn and a motion to adjourn until all the people are heard. You should know the rules better than that.

**Mr. Chairman:** I think Mr. Duksza agrees with the point that Mr. Rotenberg made. If we can then proceed, Mr. Warner, to your motion.

**Mr. Warner:** That's correct. I move that since it will not be possible for legislation to be drafted, introduced, given adequate discussion and passed between the June 15 reporting date of the committee and the deadline of the end of September, which must be met for legislation to take effect on January 1, 1979, that this committee report immediately to the assembly that the present rent review legislation be extended for at least six months as an interim measure.

I so move its adoption.

**Mr. Rotenberg:** Mr. Chairman, I would move that motion be tabled until after all the deputations have been heard.

**Mr. Epp:** Mr. Chairman, I find it somewhat incredulous. Just a week ago, everybody agreed that we would ask to have an extension till June 15, and now we're saying that we immediately report to the assembly. I find a lot of flip-flopping here and I'm new to this game, but I'm not—

**Mr. Rotenberg:** It's not flip-flopping. It's called posturing.

**Mr. Epp:** It's posturing and flip-flopping, because only a week ago we were going to extend, and we asked the Legislature to extend, our mandate until June 15. Now we're saying we want to immediately report, and immediately, I imagine, is tomorrow.

**Mr. Duksza:** Have you read that the House leaders have agreed that the House should adjourn on June 23, which would give

a week for the government to act on our recommendations? It's perfectly ridiculous.

**Mr. Rotenberg:** The green paper said very specifically that legislation would be brought forward in the fall and that was the understanding by all parties.

**Mr. Warner:** Mr. Chairman, we have a very serious problem and I would ask the members of the committee to direct their attention to it just for a few moments.

The end of September, September 30, is the cutoff date from the legal standpoint with respect to the expiration of the present legislation, which is December 31. We've been informed that this House will sit beginning October 2. I don't understand how it would be possible for the government to bring in legislation when the House isn't sitting. I would, therefore, interpret it to mean that it is not physically possible for the government to produce the necessary legislation to take effect. Otherwise, you've got some serious legal problems.

Once you've gone past that September 30 dateline you're into serious problems for both landlords and tenants with respect to the notice date or termination notice that's required. What I'm saying here is that regardless of what we report back on June 15, as a committee—and we've moved something which we care to have adopted; obviously, other members may choose to do differently—but regardless of what we report back on June 15, it's important to have the extension of the present legislation for six months so that the government can draft whatever legislation it cares to draft.

It should be noted here—I'm sure all members know this—that a committee can report whatever it wants, but the government is not obligated to draft legislation around a committee report. It can draft whatever legislation it cares to. That's the power, the right of government. That's the way it should be. What I'm suggesting by my motion is that the present legislation be extended six months so that the government has the time to bring in the proper legislation, whatever it sees as proper legislation. I think it's perfectly in order and unless it's accepted there's going to be a serious legal problem for both landlords and tenants in this province of Ontario once you go past that September 30 dateline.

**Mr. Rotenberg:** Mr. Chairman, I wish to move the adjournment of this debate.

**Mr. Chairman, David,** if I may comment, your motion and the comments that you made around it do two things. I think you raised the question about September 30 and the need to prepare legislation and that's a



sensitive date, that 90 days before the termination of the existing law, no question about that. Whether, though, the government plans to call a special session is beyond the control of this committee and certainly beyond my knowledge, but that is none the less a good point.

As the motion reads, though, it specifically deals with this committee's report to be made immediately rather than June 15, as really is our mandate, and I think that I would rule the motion out of order in that it pre-empts what our report will likely look like on June 15.

**Mrs. Campbell:** Can you debate this?

**Mr. Warner:** Mr. Chairman, with respect, the motion isn't out of order. It may be voted against. I'm suggesting that it's an interim step. A committee can report every day if it wants to. There is nothing out of order about the motion. It pertains to the subject matter.

**Mr. Rotenberg:** On a point of order, Mr. Chairman, I have moved the adjournment of the debate on this motion. That is a non-debatable motion and I ask you to put my motion.

**Mr. Makarchuk:** You deal with only one motion at a time, Mr. Chairman. You deal with the motion that you have on the table and then you introduce another motion.

**Mr. Rotenberg:** This motion is on the table and I have moved that—

**Mr. Makarchuk:** All right, then we deal with that motion first.

**Mr. Warner:** The chairman surely has to rule whether it's out of order or not, and I would certainly say it's in keeping with rule 76.

**Mrs. Campbell:** No, you want House rules.

**Mr. Warner:** It pertains to the subject matter of this committee and it's extremely important that we file an interim report.

**Mrs. Campbell:** You can move the adjournment of a debate; that is in order and it's not debatable.

**Mr. Chairman:** The committee acts on the same rules as the House.

**Mrs. Campbell:** If you want to stick to the rules, stick to them.

**Mr. Warner:** The committee is in the hands of the chairman.

**Mr. Epp:** And the rules of the House.

**Mr. Warner:** The chairman will make a ruling.

**Mr. Chairman:** The chairman is the guy who is trying to figure out what the rule book looks like.

**An hon. member:** I told you the motion was out of order.

**Mr. Chairman:** I repeat that. I will not entertain this motion because I think it does pre-empt what the committee is doing.

**Mr. Duksza:** Mr. Chairman, it does not pre-empt because it is an interim report which takes care of certain technical—

**Mrs. Campbell:** Is the ruling of the chair debatable?

**Mr. Duksza:** Excuse me—if he is saying that this is out of order, I can't argue?

**Mr. Chairman:** You can challenge, but you can't debate.

**Mr. Epp:** I think the record should show that the NDP do not want to hear these deputations and therefore are trying to thwart the progress of the committee.

**Mr. Warner:** I think that's real silliness. I hate to challenge the chair, because I know the problems you've got.

**Mr. Epp:** I know, and you're creating them.

**Mr. Chairman:** The Chairman of the committee of the whole House suggests, David, that your motion is in order; if it is seconded.

**Mr. Warner:** It doesn't have to be seconded in committee.

**Mr. Chairman:** We should proceed to vote on it then.

**Mr. Warner:** It should be brought to a vote.

**Mr. Rotenberg:** He's in order and I moved the adjournment of the debate on that motion, which is non-debatable.

**Mrs. Campbell:** And he's in order.

**Mr. Rotenberg:** I think it is incumbent upon the chair to take the motion to adjourn the debate on Dave Warner's motion.

**Mr. Warner:** Will you call his motion then?

**Mr. Chairman:** All right, David, would you repeat your motion?

**Mr. Rotenberg:** I move that we adjourn the debate on Mr. Warner's motion.

Motion agreed to.

**Mr. Chairman:** Next witness.

**Mr. Burton:** Perhaps before I begin, Mr. Chairman—and please tell me if I am out of order—I don't quite understand what is going on here. I'm not knowledgeable about the process and I'm sure a lot of people in the room aren't. To tell you the truth, Mr. Chairman, I don't know what I'm here for. I don't even know what this committee's here for. The NDP have made a motion, which I have to say must be an insult to the committee



and to the whole democratic process. All the matters here haven't even been considered—they haven't been tabulated.

**Mr. Duksza:** Yes, they have been tabulated.

**Mr. Burton:** Please be quiet until I'm finished.

Really, I don't understand what's happening. Perhaps I can just explain—

**Mr. Chairman:** Mr. Burton, excuse me. Your concerns are shared by other people on the committee. We've discussed this at some length this morning. We discussed it just now. This is your third visit back to the committee. You probably understand more of the rules of procedure than the chairman does.

If you would be kind enough, just for the record, to once again identify yourself, Mr. Burton, and proceed with your message today.

**Mr. Burton:** Thank you, Mr. Chairman. My name is Richard Burton and today I speak for a group called the Multiple Dwelling Standards Association. I am also speaking for myself. I operate about 1,200 apartment units and the Multiple Dwelling Standards Association has about 20,000 units.

I've already given a brief regarding rent controls and so has the MDSA. We were in favour of abolishing rent controls altogether and getting back to the free market system. We submitted that rents have lagged far behind increases in other goods and commodities, particularly wages, and the HUDAC brief pulled out some figures that, very frankly, surprised me.

Rents, you must agree, are a real bargain. You talked about affordability—

**Mrs. Campbell:** Mr. Chairman, on a point of order. I understood today that we were dealing only with the landlord and tenant aspect and not with rent review. Am I wrong in that?

**Mr. Chairman:** No, you're quite right; and Mr. Burton, that's what your written brief talked about.

**Mr. Burton:** I should apologize. I just wanted to identify myself. I'll go on to matters regarding the Landlord and Tenant Act.

**Mr. Chairman:** Please do.

**Mr. Burton:** This brief I have given you today from the Multiple Dwelling Standards Association is regarding matters which are now under the jurisdiction of the Landlord and Tenant Act.

First, I would like to look at the relationship between landlord and tenant. We believe that over the past few years the relationship

has deteriorated from a friendly one-on-one relationship to one of confrontation and constant agitation between the two.

Let's look at the cover of this thing: Policy Options for Continuing Tenant Protection—by the way, you have marked it with red, I just hope that's not an indication of the government's political persuasion.

Policy Options for Continuing Tenant Protection; to me this has a connotation that tenants need protecting; that all landlords, boy, they're great big, bad guys and they're out to sock it to the little wee tenant. That's unfair. It creates animosity. It creates friction. It singles out one group and calls them exploiters. Then you get this word "landlord." It's almost back to the feudal times where we are "land lords." We ride around in armour with great big sticks—I don't know what they call those sticks—

An hon. member: A lance.

**Mr. Burton:** —and we take the last penny from the serf. This friction is being increased, and increased every day because of government, because of tenant organizations; and to a lesser extent, certainly, because of unscrupulous landlords.

Over the last years, tenants' rights have been enlarged, to a great extent properly so. But the legislation has all but forgotten about tenant obligations and landlords' rights.

To get into the particulars of the act and payment of rent—or more properly non-payment of rent—rent is unlike any other commodity; rent is really a payment of time, time in the landlord's building. Once time passes you can never take it back. When Eaton's sells a sofa and the guy doesn't pay for it, they take it back and recover some of their cost. But you can't take back a month that is already gone, it's gone forever.

[11:30]

We believe the 20-day grace period that tenants have during which to pay their rents is absolutely absurd and unnecessary. In my experience it encourages tenants to be tardy about their financial affairs. They can pay 20 days late without any repercussions from the landlord. If the landlord starts proceedings against the tenant, the tenant pays the day before the court date and the proceedings are stayed.

I, myself, have 16 tenants. Every single month we have to file; the day before court, they pay their rent. They don't pay the court fees, but then you don't want to spend a morning in court for the \$10.

We also believe that the scope for using expertise to operate within the act is exceptional. As a matter of fact, I wrote a book on

it. I called it, Landlords' Guide to Court Evictions and Other Legal Remedies. I wrote this book particularly for my fellow landlords who really can't cope with the system. It is difficult; a lawyer charges them \$250 and for many landlords that's the entire profit for the month.

We also believe the system of evictions can be taken great advantage of. We have a large building in London, Ontario, where students are about half of the building population. They have a terrific scheme. I wish I had known about it when I went to school. Students commence their lease in September so that it expires at the end of August. School ends in May. How do you get out of your lease? How do you not pay rent for those three or four summer months? It's simple. Don't pay May's rent. The landlord is forced into giving you an eviction notice for non-payment of May's rent and you vacate on the strength of that notice. Bingo. The landlord holds the bag for the three months.

We submit that the grace period should be entirely eliminated and that greater legal pressure be put on tenants to pay their rent on time. On the day after rent is due, we believe an eviction notice should be served on the tenant giving the eviction date of only two or three days into the future. At the same time, the landlord should be able to apply to this tribunal. If there is no dispute filed by the date the tenant is supposed to be out, then the landlord gets an automatic writ of possession and the tenant would have another two or three days to get out.

We also submit that the landlord should be able to put himself back into possession, perhaps with the assistance of a private bailiff, as is now in the case with commercial tenancies. The exceptional delays we are experiencing with a county court sheriff should be eliminated. The county court sheriff is a very nice man and when the tenants give him a little bit of a story, "You know, my kid here has to finish school," or "I am not feeling too well"; fine, all right, stay another two weeks. It isn't his dough.

Evictions for cause: Security of tenure we agree is admirable and we support it, but at the same time security of tenure must not be allowed to give immunity to the small number of tenants who make it intolerable and even dangerous for other tenants and for the landlord.

Security of tenure, we maintain, only benefits what I call the "bad actor" at the expense of the good tenants who behave themselves and treat the apartment as if it were their own home. Certainly it's not unreasonable to ask tenants to do that. We submit that tenants

who substantially breach a reasonable rule should not get a second chance. They should not have the right to remedy their breach.

In my brief I have given several examples of entirely true cases we have pulled from the files of some of our members, cases where the tenants were doing exceptional damage to the property or often creating an exceptional risk to the lives of other tenants. We had one situation where a young lady, who was perhaps a little mentally disturbed, kept leaving her stove on and would go out to work all day. There were four fires. We started eviction proceedings, where she had the 20 days to remedy the breach; but within those 20 days there was another fire and a lady's little boy was very severely burned. Had we been able to evict speedily, as soon as we saw this sort of nonsense, perhaps that tragedy would not have happened.

**Mr. Acting Chairman:** Excuse me, are you reading directly from your brief?

**Mr. Burton:** No.

**Mr. Acting Chairman:** I couldn't find where you were.

**Mr. Burton:** No, I am not reading anything.

**Mr. Acting Chairman:** No wonder I couldn't find where you were.

**Mr. Burton:** I am sure you can read it yourself.

**Mr. Acting Chairman:** You are on page eight, roughly.

**Mr. Burton:** Yes, I am roughly following it. I am speaking about a few of the examples which appear on pages seven and eight, but I certainly won't read them all. I see we are running a way behind. I'll try to go as fast as I can.

For a tenant who is doing exceptional damage or creating an exceptional risk to other tenants, it takes 20 days' notice. I gave you the story about the stove. This is absolutely ludicrous. In the 20 days when you give the tenant a notice of his breach, his behaviour will probably worsen. We submit that people like these, which I call bad actors, be evicted very quickly.

The current restrictive reasons for evicting a tenant for cause are a legislative outrage against the well-behaved tenants who are in the vast majority. I don't understand why none of the tenant organizations has brought out this point. Tenants need protection from other tenants who don't know how to behave, I suggest the reasons be exceptionally expanded. Make them very broad so they could encompass all sorts of misbehaviour. We submit if there is an exceptional breach the



tenant should be given perhaps one or two days.

On lease renewals, a tenant can sign, on the first time he comes to rent an apartment, for one year. After that time, he can simply say: "I am going to month-to-month basis now. I will not sign a year's lease." Under the current legislation, the landlord cannot evict him for that. This creates a great hardship for tenants because it is far more difficult to raise mortgage money. Mortgages will be harder to find and perhaps more expensive because mortgage companies want to see a security of rents coming in for the next year. It also can put a hardship on landlords, such as in university centres, where all of a sudden at the end of May the building is half empty.

I would like to talk now about a tenant's responsibility when vacating. We are finding that unfortunately a majority of tenants leave their apartment in such a state that a good deal of work is necessary to put it back in order for the next tenant coming in. We find that most tenants are perhaps indifferent. They don't really care that the landlord will have to work to clean it up. There is also a large number who are just downright spiteful and leave the place as messy as they can because they know there is no recourse.

We submit that this has happened because tenants no longer have to lodge with the landlord a security deposit for damages. We would like to see security deposits put back into the legislation, but with a different twist. Right now the tenant need not pay his twelfth-month rent. He prepaid that when he came in. We would like to see him pay his twelfth-month rent, and a day or two before the tenant vacates, the landlord could inspect his apartment. If it was to the landlord's satisfaction, then he would have to refund the prepaid rent—perhaps within three days. If it was not to his satisfaction, the landlord would make an application to the tribunal. The tribunal would hear evidence on how much — all or part — of a security deposit should be kept by the landlord. If the tenant would not dispute the landlord's claim, then the moneys would go to him.

I would like to talk now about the tribunal. The tribunal really hasn't been dealt with a great deal in the green paper. They only talk about a tribunal. To tell you the truth, it scares me a great deal. I think that any sort of court-type atmosphere—and you are politicians, you certainly know a great deal more than I do—is an integral part of a democratic system, but the courts are

completely separate from the legislative or from executive functions. It would be a denial of natural justice to have a quasi-judicial tribunal under the same ministry that is responsible for the program. It should be separate and not accountable to them.

I have listed in my brief several decisions from rent review officers that indicate the problems with discretion. They all come up with some different views. We believe that most of their decisions are made completely outside the law. We heard about one two or three weeks ago from a landlord in Richmond Hill. As a matter of fact, I had a similar case where financial loss was completely disallowed. The rent review officer recognized it, because he said: "I know you have a financial loss." He said this in writing—and if you like, I will give you the written reasons—he said in writing: "I know you have a financial loss, but I am disallowing it because when you bought the complex you knew there would be expenses." That is a reason from an educated man? If I was his mother I wouldn't let him in the house again.

Both the federal and provincial tax departments have set up regulations that are known both to the department and to taxpayers, and they work very well. I might add that most of these are regulations, orders in council. Of course there are some interpretation regulations, but we are finding—I and my colleagues—that we have a rent review law and relatively few regulations. We are finding rules, regulations and policy being administered as if they were the law of the land. When executives start making rules, regulations and policy and then administering them as if they were law, then we have a breakdown in our democratic system.

It is a very dangerous situation. It has been proven such under the rent review system. I caution you, don't let it happen under this tribunal system. Detailed regulations down to the minutest detail should be set out which must be followed. Discretion has not worked. Discretion allows for value judgements; but value judgements differ.

I would now like to talk about the tribunal personnel. The report from most of our members indicates that the rent review personnel were rather poor, very biased; as a matter of fact the committee heard—

**Mrs. Campbell:** Everybody can agree on that, both landlords and tenants. Somebody must be wrong.

**Mr. Makarchuk:** They are all defeated Tories.

**Mr. Burton:** The committee heard a while ago from Parkdale Community Legal Services.



**Mr. Makarchuk:** They are really biased.

**Mr. Burton:** Yes, they are, thank you. A former member of Parkdale Community Legal Services, who happens to be a solicitor, sits on the rent review board. That to me is where a judge truly is an interested party, there is a clear denial of natural justice.

We submit that neither tenants' representatives nor landlords' representatives should sit on the tribunal. They must be people of the utmost objectivity with no interest whatsoever.

**Mr. Makarchuk:** You'll probably find some in the Huronia centre.

**Mr. Burton:** The paper talked about harassment, but we don't really know what harassment is. I believe some people would term harassment as a landlord banging on his tenant's door two or three times to collect late rent, or to tell him his kid is writing on the wall. This isn't harassment, harassment goes the other way.

[11:45]

It is common now, if a tenant has a problem—it may be a legitimate problem; say his apartment is too cold—he will phone the health department before even telling the landlord. You know, you don't answer the phone if it doesn't ring.

Responsibility for the tenant's belongings: This wasn't discussed to any great extent but, after a tenant has been evicted for abandoning the premises, the landlord should have no responsibility whatsoever for the tenant's belongings that have been left.

The green paper does not recognize that if the landlord is required to somehow safeguard the belongings, he may take the position of a warehouseman under the Warehousemen's Lien Act and, therefore, have considerable responsibility. Most apartment buildings don't have the facilities for storage. If they do, storage in that area may be forbidden because of fire or building regulations.

We submit that the landlord should have no responsibility whatsoever for the tenant's belongings. If belongings are left, the landlord should be able to rid himself of them as fast as he can and have an empty apartment to rent to someone else.

Which ministry should look after the entire, probably new, intertwined process of rent review and landlord-tenant relations? We submit that it should not be the Ministry of Consumer and Commercial Relations. That is really a consumer-oriented ministry. It was pretty well set up for the consumer, for the little guy to come to.

If I may, I would like to read from my brief; I have only a couple of very short-paragraphs.

Let's face it: the Ministry of Consumer and Commercial Relations is a consumer-oriented ministry. It is a place to come where the little guy has been ripped off. I cannot accept for one moment that if a minister or a ministry has under its control a quasi-judicial tribunal that it will not be as objective and unbiased as it should be. We cannot understand how this type of tribunal can completely divorce itself from the pro-consumer orientation that is the reason for its very existence.

We submit that any sort of tribunal should remain under the direction of the Ministry of the Attorney General. We also believe that the Ministry of the Attorney General is oriented towards dealings with matters on a more judicial level and will hold hearings far more fair to both sides.

We also heard some talk about the standard lease form. It was only talk in the hearings here; it wasn't brought out in the green paper. I really can't comment all that much on it, but we must always recognize the common-law right to contract; if a tenant wants to move into a building that has no dogs or is children-free, or if it is an older retired couple who want the assurance they will have the peace and quiet for which they may even be willing to pay a premium rent, the legislation should guarantee this right. People who act contrary to those conditions that they have agreed to should be evicted quickly.

In my closing remarks, I will read again from the brief:

"As a responsible association, the Multiple Dwelling Standards Association understands that for years tenants' rights were limited to those of feudal times, where the law has its roots. Changes were necessary because we were no longer in a master-servant relationship. We feel, however, that the government has gone overboard. When the Landlord and Tenant Act was revised in 1970, and again in 1975 and 1977, the landlord as a legitimate businessman was forgotten. Tenants were given all sorts of rights but little consideration was given to their obligations to pay rent on time, to act like gentlemen or to treat the property properly as if it were their own home.

While tenants' rights have been enlarged drastically in the past few years, this has been done at great expense. Respectable tenants who think of their apartments as their home no longer have the assurance that their neighbours must act in the same way. Similarly, landlords are finding it increasingly difficult to eliminate undesirable or non-

paying tenants. We submit that as a result there is a positive reduction in the quality of rental housing in Ontario.

I am open to any questions, gentlemen.

**Mr. Acting Chairman:** Thank you very much, Mr. Burton. It is good to have you here again. I think the brief speaks for itself and has sufficient content for the members that you have probably avoided the need for questions at the moment. Thank you.

I would like to move on, if we may now, to Parkdale Community Legal Services, Ms. Swords.

**Ms. Swords:** Mr. Chairman, I might point out that I did bring 10 copies of our brief today. I also delivered one copy to a member of each of the parties yesterday afternoon about 5:00 o'clock. I gave one to Mrs. Campbell, one was given to Mr. McCaffrey, and one to Mr. Duksza. I just picked one member from each party on the off-chance they would be in and have a chance to read it before today. I don't know if that has happened or not.

Unfortunately things were quite hectic at our office and I wasn't able to get it in until yesterday afternoon.

**Mr. Acting Chairman:** Most of us don't see our offices from day to day.

**Ms. Swords:** There are some copies here today.

**Mr. Acting Chairman:** Thank you. We are distributing the copies now.

This is a copious brief, a 32-page brief, and I think the committee would best understand it if they had the opportunity to read it on their own. It might be better for you to highlight some of the points as opposed to reading it directly.

We have about 49 delegations today, which is no reflection on your own brief and your own submission, but if we are to hear them all before we start writing our report, it is important that we at least be awake when we are hearing them.

We have scheduled delegations until 10 o'clock tonight on a brief every 15-minute basis, so I would ask you, if you won't mind, to confine your remarks to supplement the brief and allow us to take the brief home and digest it on our own, which I think will be more useful for us.

Could I request you to follow that route?

**Ms. Swords:** Mr. Chairman, from my point of view, the most important part of the brief is the section on repairs and termination of tenancy.

The part that deals with termination of tenancy does go into quite a bit of detail

but if I might read the part that deals with repairs and then just highlight the other parts, that would be fine with me.

**Mr. Acting Chairman:** That would be fine.

**Ms. Swords:** I might also mention that I distributed three copies of an article that is in the Harvard legislation journal that deals with a model tenants' remedies act, it deals largely with the problem of repairs. It is quite a long article so I have only Xeroxed three copies; I would hope that a member from each party would get it and would have an opportunity to read it.

**Mr. Acting Chairman:** We will do better than that. I think if we provide a copy to the staff they will provide all members of the committee with a copy of it.

**Ms. Swords:** I won't be referring to it today. As I say it is quite a lengthy report.

I would also ask my comments today be considered in light of our comments on April 26. I have no intention of going over them again. They dealt with the housing tribunal, rent review and housing policy in general. Today I am strictly going to be looking at the Landlord and Tenant Act.

**Mr. Deputy Chairman:** Thank you. Now would you refer us, in your brief, to the—

**Ms. Swords:** Starting on page two—as I said, I would like to read from our brief on repairs because that, next to rents, is the major area of complaints that comes into our office.

"The policy paper sets one of its five criteria for suitable policy as the 'adequate quantity and quality of rental housing.' Yet in the report's 56 pages; there are few and only minor references to this problem."

We feel that: The policy report fails to adequately address the problem and suggest remedies. Any tenant protection package that does not meet the problem of quality in housing is totally deficient and unsatisfactory.

"The present section 96 of the Landlord and Tenant Act adequately states respective responsibilities and rights of landlords and tenants regarding the conditions in a building." For members of the committee who have had no contact with the landlord and tenant law, I think I might just read part of section 96 so that you may familiarize yourselves with it.

"A landlord is responsible for providing and maintaining the rented premises in a good state of repair and fit for habitation during the tenancy, and for complying with health and safety standards, including any housing standards required by law; and notwithstanding that any state of non-repair ex-



isted to the knowledge of the tenant before the tenancy agreement was entered into.

"The tenant is responsible for ordinary cleanliness of the rented premises and for the repair of damage caused by his wilful or negligent conduct, or that of persons who are permitted on the premises by him."

A subsection after that deals with an application by the landlord, or the tenant for that matter, to a county court judge to enforce the rights set out in that section.

The eight years of experience we have had in Ontario with section 96 suggest it provides a right, in many instances without an adequate remedy. Lengthy court battles, fear of reprisal from the landlord, small abatements and uncomplained-with orders have discouraged many tenants from making applications under section 96.

In Toronto and some other Ontario municipalities various bylaws also govern conditions in buildings in respect of rodents, housing standards, overcrowding, minimum heat levels, fire prevention and such. Our experience has been that these bylaws are valuable in setting a standard. Further, in Toronto, city inspectors have been responsive to complaints in investigating violations of standards.

However, the standards are just that; standards and not a reality. A protracted appeal process from city work orders, lack of staff, money and aggressivity have led to the city of Toronto not utilizing the broad powers it has to effect compliance with municipal standards. This is particularly the case when a large multi-unit apartment building with major problems of disrepair is involved.

Conditions would be improved by a shorter appeal process. Our suggestion is that appeals from municipal work orders be made to the housing tribunal alone. The tribunal would have authority to affirm, rescind or vary the work order.

Along with this, a section similar to the present section, 106(12) of the Landlord and Tenant Act, should be enacted to permit a common hearing date for a landlord to appeal a work order and a tenant to seek relief under section 96.

To further tie in the residential tenancy commission with bylaws on municipal housing standards, all work orders could be filed at the central registry of rent levels for rental units. Better enforcement of municipal bylaws is not the only solution. Not all municipalities have housing standards, and the right to housing that is fit to live in should provide a private remedy to the tenant as well.

The remedies provided in section 96 to terminate the tenancy, for an order that re-

pairs be done or for other relief such as an abatement of rent, have proven themselves inadequate in certain respects. Many tenants are reluctant to take the time and expense to go to county court to effect minor repairs. Some do the repair themselves, deducting the amount of the repair from the rent. This procedure has no express statutory authority, though one can argue that the covenants of the landlord and the tenant are interdependent, in that section 89 entitles the tenant to take this action. We suggest that for minor repairs or maintenance problems that would cost less than two months' rent to fix, tenants should be entitled to correct the situation or effect the repair themselves after giving 14 days notice in writing to their landlord of their intention to do so and an estimate of the cost of the repair. If the landlord objected to the repair, application could be made by the landlord to a residential tenancy officer for a determination of the need for the repair.

Not all repairs are this minor in nature and not all repairs affect only one tenant. In this regard, I am thinking of buildings that have been allowed to deteriorate over time, or where the common elements, such as a lobby or the parking garage, are in need of repair; or where major repairs such as those to a roof, heating or plumbing system are required. Our community in Parkdale has its share of such buildings where conditions of disrepair have reached colossal proportions.

In some cases involving major repairs there is simply a communication difficulty. The landlord has not become fully aware of the magnitude of the problem. We have had occasional success in such instances by a group of tenants getting together and petitioning the landlord to correct a certain problem. To encourage such action we suggest a provision that if one third of the tenants in a building so petition, the landlord should be obliged to meet with the tenants within 21 days to discuss the concerns of the tenants. If possible, an agreement could be worked out between the tenants and the landlord regarding the procedure to be followed in effecting the repair.

This suggestion is contingent on both parties' good faith and spirit of co-operation. Failure on the part of the landlord to meet with the tenants or to abide by the agreement should result in the tenants being empowered to apply to the housing tribunal forthwith for authority to pay the rent into the tribunal pending a resolution of the problems.



When a building has fallen into serious disrepair, collective action on the part of the tenants seems to be the only activity that brings results. There have been instances of tenants paying money into a trust fund which is disbursed to the landlord upon proof of contracts to effect the repairs. Again, there is no expressed statutory authority for this action, so tenants have only attempted it in very extreme circumstances.

[12:00]

Rather than discuss elaborate schemes now to provide viable remedies to tenants in cases of extreme disrepair, I've sent around an appendix, which as I said earlier is an extract from an article in the Harvard journal on legislation. This model tenants' remedies act presents in considerable detail a scheme which with some alterations to suit the Ontario situation could make the right in section 96 truly enforceable.

Repair and maintenance problems are of varying degrees and seriousness. As a result, there should be a variety of remedies available to tenants to reflect this variety and to ensure the right in section 96 is preserved. Then I have listed the specific recommendations, but I've already mentioned them in the course of my discussion.

The next section that we dealt with was termination of tenancies. It's our feeling that security of tenure has been a boon to tenants in the province and that it does not discriminate unnecessarily against landlords. We found that landlords have been slow to adjust to the security of tenure situation, and that some small landlords don't have access to the legal expertise necessary to enforce their rights. We have sympathy for them, but we would suggest that perhaps the Legal Aid Plan of Ontario needs to provide more legal services for the small landlords so they can enforce their rights.

With regard to arrears of rent, we're quite concerned about the suggestion in the red paper that the grace period and the procedure be shortened. We found that the majority of our tenants who have a problem with arrears of rent have that problem because they have such a low income and are paying such a high rent. The long-term solution for them is not in any way to shorten the grace period of the procedure. The only solution for them is to have affordable housing; and that is only going to come about, as I suggested in our earlier brief, through more investment of government money in providing housing for those low-income sectors.

Other people who have problems with arrears of rent are sometimes in a temporary shortfall situation. They may be on unemployment insurance or workmen's compensation and are waiting for a cheque to come in the mail. We feel that a grace period is absolutely essential for people such as this. There are too many problems with our mail, too many contingencies in the financial situation. I'm sure we're all familiar with running into problems with our banks in an overdraft. There has to be a grace period. We found that the 20-day period is not unfair to landlords if they follow the proper procedure at the end of the grace period in order to effect the eviction if the money hasn't come through.

We've also suggested there have been instances of landlords abusing the security of tenure section, in particular with regard to a landlord seeking to regain possession of an apartment on the basis that he needs the premises for his own use or the use of his immediate family. The present Landlord and Tenant Act requires that this be a bona fide intention on his part. Bona fides is a very difficult thing to attack or get at in court. Judges tend to feel that the landlord merely says, "I want to use it for my own purposes, that is correct." I know of one building in which there are only six units, five of which are presently occupied, and the landlord has given notice to three out of the five tenants that he wants to use it for his own purposes. At the same time, the city issued a stop-work order because he's converting the one vacant unit. There's a lot of suspicion in my mind as to what's going on there. As I said, the judges have a reluctance to really go behind the bona fides of a contention.

I feel there needs to be a section written into the Landlord and Tenant Act that gives a remedy to tenants who are evicted on the basis of sections such as that for fraudulent or incorrect reasons. They need to be given an opportunity to sue the landlord specifically afterwards. Again, that is elaborated in much more detail in my brief and I won't go over it now.

The third section deals with termination by the tenant. We discussed assignment and subletting and it is our feeling that assignment and subletting comes into play in two situations. One is the case of the teacher or whatever, who is going on a sabbatical for a year and who wants to keep the place available for when he gets back. That, to me, is a valid situation when subletting should be provided for. But from our experience, subletting is usually used by the landlord and the tenant, in effect, for termination of the

tenancy. The tenant needs to move out early, for whatever reason, and in order to get out of the obligations under the lease ends up having to enter into a sublease; and that's when you run into a lot of problems.

In the red paper, there's a suggestion that landlords are not satisfied with the subletting provision because then they get a tenant they haven't consented to and can't evict them. Well that's not correct. If the tenant is in breach of the Landlord and Tenant Act in any of the security of tenure sections, the landlord can then evict the subtenant. So we don't feel that that's a reasonable suggestion on the landlord's part.

But what does seem to us to be a problem is that tenants do run into situations where they have to break a lease and the present law is quite vague and indefinite. It says the landlord must mitigate his losses, and that's just too vague.

It seems to us there are legitimate reasons and circumstances in which a tenant needs to terminate a tenancy early, and one in particular that I want to draw to your attention is the tenant who gets into Ontario Housing. Ontario Housing has a policy of offering a place to a tenant and keeping it open for only several weeks because they want to keep their apartments occupied. Some tenants are really quite concerned about their present lease. They don't know whether to take the Ontario Housing or not and risk breaking their lease and being held liable for several months' rent. Normally, your advice to them is: "Well, it's more important that you get into Ontario Housing and you should run this risk." It seems to us that, in the interests of the landlord, that tenant has got an affordability problem if he's in private sector housing. The landlord can then, if the tenant leaves, rent to someone who can better afford the place. It is in the long-term interests of the landlord to let the tenant out of the lease and it's in the interests of the tenant to get into Ontario Housing. Therefore we are suggesting that if a tenant is offered Ontario Housing, the tenant should be able to get out of a lease on 21-days notice to the landlord, providing proof from Ontario Housing that he has been offered a place.

So that's one instance where we feel it's in the interests of landlords and tenants that a tenant be given early termination. There are several other instances and they are listed on page 17.

Just with regard to that, I wanted to mention that under the present scheme landlords can terminate a tenancy early for certain causes and we feel there should be a parity in the situation between landlords and ten-

ants, that tenants in certain instances should also have a right to terminate a lease early. This is not a new suggestion by any means. It's merely clarifying and enlarging the right that exists in the present Landlord and Tenant Act, in that under section 96 a tenant can now apply for a termination of a tenancy early, and under section 106 a landlord can do that as well. But it seems that there should be a tightening up of the act and more specific guidelines be given for circumstances in which a tenant should be allowed to terminate a lease early.

We dealt with abandonment and distraint of goods. That's mentioned in the red paper as well, on page 18. We have quite a few problems of tenants whose landlords take their things, put them away and won't give them back until the tenant pays up with arrears of rent. That used to be allowed in residential tenancies but it was abolished in 1970, however there's no specific remedy in the present Landlord and Tenant Act for residential tenants to get their goods back. They can lay a charge against the landlord for doing this but that doesn't get them their things back. We are suggesting that a tenant be able to apply to the residential tenancy commissioner or a residential tenancy officer, to get some relief. At the same time the landlord could be applying for his arrears of rent. Something could be worked out there but—

**Mr. Rotenberg:** Simple; just have the tenant pay his rent.

**Ms. Swords:** Well, you know, under the present act initially there is a summary application for arrears of rent when a tenant is still in possession; there's not a right in the present act for a landlord to distraint goods arbitrarily. He has to apply to the court for arrears of rent; and there are reasons for that so that due process is followed.

**Mr. Duszta:** I hope you have learned something, David.

**Mr. Rotenberg:** I learned something. It's also one sided.

**Mr. Duszta:** But you have learned something?

**Mr. Rotenberg:** I know the situation. But I am saying the simple remedy for tenants is that if they pay their rent they won't get into these problems.

**Ms. Swords:** Well, the simple remedy for the landlord is to sue the tenant for arrears of rent.

**Mr. Rotenberg:** Yes, and the tenant has long gone for four months' rent, and you never find him again.



**Ms. Swords:** Well, it's not always that circumstance; and if the tenant is back trying to get his things, he's obviously in town.

If I could turn to abandonment, that is a problem for landlords and sometimes for tenants. What we are concerned about here is that a definition be made as to when goods are abandoned, because you run into problems. Sometimes a tenant falls ill and suddenly ends up in hospital. On the other hand, you can run into legitimate situations where a tenant just moves out of town and hasn't been seen for some period of time. It's a problem for tenants as well, particularly in locker rooms when things are left there for a period of time and cockroaches and vermin get in. We're suggesting there be a definition of when goods are considered abandoned; that there be a provision for a landlord to put notice either in a paper or to the last known address; some notice provision for the landlord to say, "I'm going to make an application to a residential tenancy commissioner for permission to do something with these goods"—either to sell them, to use them for my own purposes, give them to the Sally Ann, whatever.

There's sort of a parallel situation in the present Warehousemen's Lien Act that provides provision whereby a warehouseman can give notice and after 21 days, if nothing has happened, if the storage fee isn't paid up, if the things haven't been collected, he can sell them, dispose of them, whatever he wants to do. There should be some procedure set up to deal with abandoned goods, and we suggested a procedure in our brief.

There's a section in our brief on privacy. That continues to be a problem for tenants. We feel there needs to be a specific forum for that to be dealt with and suggest that the forum would be before the residential tenancy officer. If a tenant has consistent complaints about a landlord breaching his privacy, he could apply to that officer.

Then we have some miscellaneous concerns. One of them deals with coverage, in particular whether or not, roomers are covered under the present Landlord and Tenant Act. There's still ambiguity with regard to that. We're suggesting they should be specifically covered. They need protection as much as other tenants do. We also make a suggestion with regard to co-operatives. I'll leave that to you to read.

**Service of notices:** Under the present act there are four ways a landlord can serve a notice on a tenant. The one in particular that concerns us is the provision that allows a landlord to serve by posting up notice in a conspicuous place. For the most part, that

is the method of service used when a tenant doesn't get notice. Children tend to pull it off the door. It's an embarrassment to tenants, when very often it is not necessarily because of something they have done. It could be an arrears from some time ago that was taken care of. We're suggesting that not be considered a valid method of service, but that consideration be given to allowing a landlord to serve by ordinary mail as opposed to registered mail as a substitute for that.

**Leases:** Again, we're suggesting there should be a standard lease form. It seems to us there could be provision that certain parts of the lease would be mandatory—the obligations of the tenants and the landlord in terms of repair and cleanliness. There are other parts of the lease that could be optional, but if they were going to be put in they would have to be stated in simple, straightforward terms that people could understand. I'm thinking there with regard to pets, for example, whether or not there is some restriction on that in the lease.

**Last month's rent and interest thereon:** Some tenants object to paying a last month's rent. We are at this time not making any comment on that except to say that if the last month's rent is taken then the tenant should be entitled to interest thereon. The present act gives a right to the tenant but doesn't give a remedy. We're suggesting that if the landlord doesn't volunteer the interest once a year which the tenant is entitled to, the tenant should be able to deduct it from rent after giving notice to the landlord.

The report talks in several places about problems that tenants have against other tenants. We feel that the report is exaggerating this problem and that most tenants have problems with their landlord and not with other tenants. The problems that tenants have with each other are neighbourhood problems and I don't think the law can regulate all contacts between people. It seems to us that in a landlord and tenant act it is not appropriate for the Legislature to try to get into regulating tenant and tenant relationships. If one tenant has a complaint against a particularly noisy tenant, the proper route is to complain to the landlord. If the problem is serious enough, the landlord has his recourse under the present law to evict that tenant.

[12:15]

Those are highlights of our brief. It goes into various aspects of what I stated in more detail, but those are the comments I wanted to make now.



**Mr. Acting Chairman:** Thank you very much. We have the benefit of your very detailed brief, Ms. Swords, and we will proceed to digest that at our leisure, if we may, prior to writing the report. Thank you for making a presentation.

It is 12:15 and we propose to break shortly, but we have Mr. Gathercole of the Toronto Community Legal Assistance Service—is he here? No? That may resolve one brief.

**Mrs. Campbell:** This lady is trying to get your attention.

**Mr. Acting Chairman:** Yes. You are Mrs. Wisman.

**Mrs. Wisman:** I was supposed to be on at 11:30.

**Mr. Acting Chairman:** I know that, Mrs. Wisman, you told me that a few moments ago. I have you scheduled as the next witness. Then there is a Mr. Himel—is Mr. Himel here? If we entertain those three briefs, and two of them seem to have disappeared. If we entertain Mrs. Wisman's brief before lunch, we could reconvene after lunch and be right on schedule.

**Mr. Rotenberg:** Those people, Mr. Gathercole and Mr. Himel, might have left the room thinking they weren't going to be heard. I think if they come back this afternoon they should be heard; they are on the agenda.

**Mr. Acting Chairman:** I think that is a likely prospect. But in the meantime, they are not here.

**Mr. Rotenberg:** So we shall hear Mrs. Wisman.

**Mr. Epp:** I might also say that the lady who is supposed to be here at 1:30 will not be here, so we will have an empty spot there. Although I think there is another matter that will be on at that time. I therefore think we should follow the order we have here and call them in order.

**Mr. Kennedy:** That's what he is doing.

**Mr. Duksza:** Mr. Chairman, before you go on, if there is a spot open at 1:30, could we put the OFL on? The Ontario Federation of Labour?

**Mr. Acting Chairman:** Yes.

**Mr. Rotenberg:** Mr. Gathercole and Mr. Himel will go first if they are here.

**Mr. Duksza:** They will go first and then the Ontario Federation of Labour.

**Mrs. Scrivener:** I think if they are an added starter they should be just that, an added starter. We have a very long list.

**Mr. Duksza:** There is a spot, that is the whole point.

**Mr. Rotenberg:** We can take the 2 o'clock people.

**Mr. Duksza:** Not to disturb the social planning council, which—

**Mr. Kennedy:** There are no spots.

**Mr. Duksza:** There is a spot; Trident Associates of Windsor are not coming, so there is a spot.

**Mr. Rotenberg:** I suggest we hear Mrs. Wisman and argue about that at 1:30 p.m.

**Mr. Acting Chairman:** The first matter we will deal with at this moment is Mrs. Wisman. How long do you expect to be, Mrs. Wisman? Could you give us an estimation of the time you will take?

**Mrs. Wisman:** I think 20 minutes.

**Mr. Acting Chairman:** I think if we could go on.

**Mr. Breithaupt:** Mr. Chairman, perhaps you might advise Mrs. Wisman that we do have copies of the brief so we each have our own copy. She may just want to make some general comments then and answer some questions, rather than read the brief, because we do have it. But you do whatever you like.

**Mr. Acting Chairman:** Mrs. Wisman, we have had a copy of this for some while and all members have had it and a good many of the members have had an opportunity to read it. So if you want to highlight the brief you will be doing yourself and ourselves a service.

**Mrs. Wisman:** I am trying to. I only wonder if others didn't have the right to read their briefs even though you had them. If they did and I didn't, that wouldn't be fair.

As you know my name is Lita Wisman from the Landlord's Self Help Centre and we represent the small landlords. That's a problem, one never hears anyone talking about them.

The policy options—I like what Mr. Burton said; I was also wondering about the green paper, and the red book and the red cover, wrapped in a green cover.

**Mr. Acting Chairman:** We just couldn't bring ourselves to saying it was a red paper.

**Mrs. Wisman:** The different impact the Landlord and Tenant Act has on small landlords and owner occupied dwellings in comparison to the big rental industry is significant. Up to now, it seems, everybody is of the opinion it is the big rental industry and the small tenants. But there are people in between. I would like to say also we have tenants too.

By the way, we get quite a few calls from tenants, and we are not like some other legal

clinics that say, "You're the landlord and we'll never say anything to you." Some, of course, refer people to us, and some are not that kind. But whenever tenants phone us, if we are able to, we help them.

They often ignore the fact that a small landlord is not always the owner of the building. I wish you people would think of that. Many people come to us and say: "I am a tenant. I rent the house." But that makes them into a landlord like the apartment dweller who rents a room. I really do hope that you give that consideration: what big landlords we represent.

With this unique setup that exists within the above type of shared accommodation, the Landlord and Tenant Act has a completely different impact than it has on high-rise apartments, and with this type of accommodation, landlords and tenants face each other on daily basis; perhaps share bathroom and kitchen. Did you ever live in those places? Did you ever see the problems when one tenant doesn't come out of the bathroom and the other takes the stove all day? Any discontentment, frustrations or even hostility is very easily turned into open confrontation, verbal abuse and physical attacks. I wonder if you've seen people with blackened eyes, a landlady with blackened eyes? We've got pictures of them. We have people with split heads who have to be rushed to the hospital because of these attacks.

This never does happen in high rise apartments. I really would like to give you the feeling of what it is—

**Mr. Acting Chairman:** But in fairness we are restricting ourselves to the Landlord and Tenant Act and we cannot legislate against blackened eyes. The Criminal Code does look after that aspect.

**Mrs. Wisman:** Yes. But that doesn't remove the tenant from that home.

**Mr. Acting Chairman:** We recognize, I think, that at times there will be confrontation but I think it would be appropriate if we restricted our comments only to the Landlord and Tenant Act and how we might improve that act, from your point of view.

**Mrs. Wisman:** Yes. I thought it would show you that it has a different impact for the small landlord who lives under these conditions—and tenants too.

If the landlord cannot afford a lawyer for the eviction he may apply to court himself, but that confuses and bewilders most landlords. They cannot relate to it at all, as you can understand. Legally ignorant and often uneducated people, they cannot find their

way through court, this web of legalities. We even had lawyers and judges making errors, and we even witnessed it in our office.

I wonder if you can envision the kind of things where the landlord doesn't have the tenant's proper name. He takes the man and his name is Joe. "Oh yes, Joe, move up, please. That's the third floor. Do you want to rent it?" And if any trouble comes and he should go to court with that fellow in the third floor room he doesn't even have the name; if he can ever get the court papers together. But often he just doesn't have the name, and we have asked them to call the police. At times we couldn't help them to establish names.

I just want to ask how does the Landlord and Tenant Act work under those circumstances? We have 500 landlord/tenant cases in our office per month. That enables us really to pick the few good examples out.

Very often people say, "With this experience we will never never rent again." So many times people just close their premises down and never want to rent any more if those problems and these conditions are protected by the Landlord and Tenant Act. And some don't want to continue to rent. Some want to sell their property. That's not a legitimate reason to terminate a tenancy, you know that, but they cannot find buyers with the tenants in the house. So they stay on there. They close their place down and can't sell it and at the end they can't even pay their bills.

We all understand that most small landlords lack the necessary business knowledge and in addition are often hampered by an inadequate knowledge of English. And this is very important too. It has to do with the Landlord and Tenant Act. If they can't follow it, what good is it? Their knowledge of English is often much worse than mine. Usually they are not experienced enough to interview the prospective tenants and, subsequently, they invite problems; think about it.

They say there is a shortage of housing; there is no shortage of housing. We have to think about the high vacancy rate in older homes that don't have the added features of the modern rental industry. Everybody says: "I want to go in that nice highriser and I'll get my government subsidy. I don't want to go in an old place without these features." Then we should think—and I think this is a very important thing—why are the small landlords very often sitting on those problems? Because the prospective tenants for older homes are mostly those who avoid



the selective method of a big rental industry. They wouldn't get close to the big rental industries. So these people are mostly renting from the smaller landlords. And we have to keep that in mind.

I'll try to rush it through and cut some out.

**Mr. Acting Chairman:** It's all right, you are doing fine.

**Mrs. Wisman:** For instance, arrears of rent is the most common problem. I heard it said before the problems tenants have and, believe me, there are good-hearted landlords who don't want to lose a good tenant. If the cheque doesn't come or if the unemployment money doesn't come in, they have the greatest understanding. But very often they are exploited by people who pretend it's coming. So arrears of rent is a most common problem.

I would like to say one thing: some months ago a landlady complained to us about a tenant who after six and half years in her home suddenly stopped paying rent. The tenant too wanted the benefit of the Landlord and Tenant Act and to live rent free until the sheriff placed him in a free shelter. He had quit his job shortly before. There is the Landlord and Tenant Act for these people, that is their protection.

And then there is the professional rent evader. I wonder if you people ever find that in a highrise? That's the worst type of non-payer. He mostly chooses the weekend to approach landlords with last and first months' rent cheques. He is big. He pays right away. He is always in a hurry to move in the same day or the next. But then the following week, of course, the cheques bounce. The landlord will hear all sorts of excuses about apparent mistakes the bank made and so on, which will keep the gullible landlord off again. Finally he realizes the trick and tries to start action, of course, during which frequently wrong steps are taken, highlighting again the complexity of the Landlord and Tenant Act. Who can find out all that without a lawyer? Even lawyers make mistakes. I can bring you case after case. And also judges.

However, before the sheriff appears this character moves out to hit another victim in the same manner. This type of tenant lives rent free, fully protected by the act.

You don't have to pay one cent, you give just two rotten rubber cheques and you live rent free. You move in with two rotten rubber cheques. You say, "Now I am a tenant you cannot throw me out." You go through the whole rigmarole of the courts

but nobody can follow and even the judges make mistakes.

If utilities, et cetera, should be cut off by the irate landlord, then he might very likely receive a threatening letter from a tenant agency advising him of pending court action against him for his inhumane behaviour. If a similar rent evader does find his way into a rooming house he soon sets an example for the rest of the roomers who quickly will become aware of tenants' "rights" under the Landlord and Tenant Act and follow suit.

I must say I do think no one had that in mind when the Landlord and Tenant Act was created. It seemed no one could have had this in mind.

Welfare recipients, even though they do receive shelter allowances, often do not pay the landlord. The welfare staff is not always co-operative with the landlord. They try to hold them off and say that's a Landlord and Tenant matter because the anonymity of the tenant has to be protected, not the income of the landlord. I think it's a terrible thing. This type of tenant gets away with not only defrauding the landlord—that's very bad—but the taxpayers who pay them, and it appears, with the blessing of the social agencies. I wonder how that comes under the Landlord and Tenant Act? And, surprisingly enough, when people say, "You know, the landlord has the right to move in," we found out that most of the time in arrears cases the county court does not enforce the Landlord and Tenant Act requirement that arrears in dispute be paid into court. I wonder why that isn't being done.

Here's another thing: I just heard people speaking about the storage of goods. They said something about "reasonable time" when a tenant moves, abandons the premises or is evicted, leaving belongings behind. I wonder why they leave their belongings behind. But whatever they leave behind, the landlord must wait, as is said in the act, for a "reasonable time." But then ask everybody; not judges, not lawyers, not the court clerk, not even the sheriff's office can explain what is meant by "reasonable time." We have had the sheriff's office sending people to us to ask about "reasonable time." Our lawyer can't explain it either, so a solution of this dilemma should be found so that the Landlord and Tenant Act defines not only "reasonable time" but also includes a clause that tenants be held responsible for their left belongings. Landlords should then be able to dispose of belongings as the situation requires.



Sometimes there's no storage. The locker room is full; others don't even have a basement. The landlord would like to rent it again. How can he store it? I wonder. I really do feel sometimes that what really goes on didn't come to your attention; and if you please, I would like you to give that consideration. It's so important.

We have heard many times, although I didn't hear it from other people, of other extremely saddening cases, where for lack of appropriate accommodation people with personality disorders—some recently released from mental institutions—are left by themselves to find housing, particularly within the area of the Lakeshore Psychiatric Hospital and 999 Queen Street West. Often these tenants' unusual behaviour makes life uncomfortable and frightening, and it's a terrible thing for the other tenants too—good tenants. Usually the only alternative is to drag these unfortunate tenants through the courts. At times, we had cases where terrified homeowners had to seek nighttime refuge at a neighbour's or in a hotel until the sheriff removed these tenants.

Again, social responsibilities have been shifted onto the landlord. I'm working together with Archway in our area to help. Whenever we have a case like that I feel so sad about such a condition that we phone up first so that they can help somehow to remove that person or look after them and these poor tenants do not have to be dragged through court. There should be another place for them but they shouldn't be dumped on an unsuspecting landlord.

I also wonder if the committee knows the problems in shared accommodation. There is excessive loud noise, frequent loud drinking parties, verbal and, as I said, physical assaults. How awful that is. Often the good tenants—and we have had that many times—are forced to move, and the landlord is left with a bad tenant who doesn't pay all his unpaid bills and the landlord then has to try to get rid of him. He got rid of his good tenants. It's a very bad thing. It's all in the Landlord and Tenant Act.

Pets: I heard people saying they should have pets. That's nice. Many people don't mind little pets but pets ranging from snakes, oversized vicious-looking dogs, and colonies of rats—would you believe it?—for breeding purposes. We had that. It can be a frightening experience not only for the landlord but for the tenants.

**Mrs. Campbell:** You're so right.

**Mrs. Wisman:** Yes, not even for the landlord, for other tenants. I can't get out of

my door. There's a big wolf in front of my door. I have to keep my door shut. You know one doesn't realize that. One doesn't realize that—it might not be—

**Mrs. Campbell:** Too open.

**Mrs. Wisman:** That's right, it looks like that.

Now, on the matter of overholding tenants: If the tenant says, "I'm moving out," and the landlord then takes another tenant, what shall he do with the fellow who is there with his furniture truck and wants to move in, when the other hasn't moved out? It's a terrible thing.

Consistently late rent payments: the young lady lawyer (Ms. Swords), was worried about the six per cent on the last month's rent. Nobody speaks about accumulated interest on late rent. The tenant will get much more out of it than the landlord. Nobody speaks of that. It's the Landlord and Tenant Act—it's all in the act, or not in the act.

There is another thing. A landlord will rent to one or two persons and later they wind up having half a dozen living there, very often of dubious character; and there's nothing they can do—they cannot turn them out.

If eviction papers have been served, the tenants may stay if they cease and desist or pay up. In strict legal terms it may sound plausible, but in reality it leaves everyone in the house in constant fear that the breaches may be repeated again. I know about this because I spoke to the people. They said, "Look, that guy, he shoved me, he pushed me against the wall. He kicked me." Now, that landlord took criminal action, but still, it doesn't remove the tenant from the house. And, although we set him up with the court payments, and the tenant then said, "No, I have to be quiet or I'll have to move out," the landlord is in constant fear—or other tenants too, because sometimes such people attack other tenants—that this guy will get vicious again when he's drunk or when he's out of his mind or for whatever reason.

Another thing, landlords have to file everything in writing while tenants do not file anything at all. And the landlord is not in a position to prepare for the defence which a tenant may present for the first time in court. A tenant is in a position to delay proceedings further by cross-examining the landlord on his affidavit, while the tenant does not have to file an affidavit and, therefore, cannot be cross-examined before the court.

The landlord has to go to court at great personal expense and then back and forth. For a small landlord who has to take his day off work and doesn't even find his way through, this is a terrible expense. It seems

easy. The Landlord and Tenant Act allows you to go to court and ask to get him out. It doesn't work that way for the small landlord. It's a terrible, terrible loss. Needless to say, the big rental industry doesn't have to worry. All these people who are smart enough can take it, and it's obvious too that well organized tenants are more than adequately protected by legislation. In addition, they receive all the proper information from the various appropriate organizations, which enables them to press collectively for their issue. I don't say it's good; I'm just saying what a better position they are in.

Small unorganized landlords: As we know, these little people who rent shared accommodation in their own home are not organized, yet they contribute so much to provide housing for low income tenants. They should not be ignored any more or be discriminated against any longer. There's a spot for that in the Landlord and Tenant Act, to consider these hardships, the plight, the setup which the Landlord and Tenant Act could make certain provisions for. These people need support and encouragement and should be provided for. It isn't easy to understand educational material. I wonder if you follow what I mean. Not on a grade 13 or grade 12 level—even that is too high. When they come to my office we set a little paper up and say, "Here, this is for you." "Ho, me taking home. My boy reading to me. I'm not read English". How can these people who can't even read a little piece of paper find their way through court? There should be some consideration for these people in the Landlord and Tenant Act.

The best suggestion for these landlords would be exemption from the Landlord and Tenant Act so that they can once again sleep peacefully in their own homes and apply their little house rules. For this type of accommodation, the printed conventional leases which no one is able to understand and define without a lawyer's interpretation are completely meaningless. I can't read it; our lawyer can't read it. Legislation presently does not provide for means of enforcement of "signed house rules" which would contribute so much to an amicable relationship within shared accommodation.

One can say, "In this house after 10:30, everything is quiet." The tenant doesn't have to come into it. If he accepts it, he should be made to stick to the rules, I think; otherwise it is deception from the outset.

Regardless what decision is being made, amendments to the act are needed to change it to a much fairer and more moderate piece of legislation.

We are in agreement with the green paper where it says that for those who remain under the act, a residential board or tribunal with broad powers for the various landlord and tenant disputes, and perhaps rent review, should be set up. That would not only provide an informal and less intimidating atmosphere—again, we are thinking of both landlords and tenants—it would relieve the bogged down courts.

We feel strongly that this could provide a much more attractive and effective setting for reconciliations between landlords and tenants. I think there is really no such place now. No sane landlord would like to lose a good tenant. Of course, we have to have well trained staff to keep tenants. Anybody likes to keep a good tenant. I have never heard of anybody who wants to chase out a good tenant.

A very important point is that in cases of social hardship, as we heard before—people who didn't receive their cheques, et cetera—the appropriate agencies should be involved and made responsible. It is ludicrous that the individual landlord should have to carry this burden. It is a case for the Landlord and Tenant Act. The landlord is told, "The cheque? Oh, we don't know." The money is not coming. Whose fault is it in many cases? Even the good tenants have to wait. There are thousands of social agencies. Why don't they come up quickly with the cheque and straighten it out afterwards so the landlord at least knows that he will get something? We have landlords who waited three months and finally found out they had got nothing. Then it's four, five or six months and, of course, they never get the money.

It might sound odd to you to hear it but I see that every day. I see the people before me, that is what I am involved in.

I think the government made up these required forms. Mind you, in 1975 when the act was introduced they said it was an easy procedure and we would have the forms; they came more than six months late. So finally, after they came, we read and reread Form No. 6. There seemed something very odd while we were reading it. We phoned the Attorney General's department and made it aware of the feelings we had about it, and judges everywhere are hesitating to accept it. They had meetings and made different regulations, whether to accept it or how to look at it.

On May 4, Judge Conant decided that Form 6 is not the proper form to serve for the reasons it provides for and hence dismissed the case. This forces the landlord to either appeal to the divisional court—who can



do that if he is a small person?—which is a costly and time-consuming procedure or start action all over again with a different notice. Perhaps the committee could look into this.

**Mr. Acting Chairman:** That's fine, Mrs. Wisman. We have the benefit of your remarks and they will be most useful to us.

[12:45]

**Mrs. Wisman:** I hope it does help.

**Mr. Acting Chairman:** Yes, I'm sure it does. Thank you, Mrs. Wisman.

**Mrs. Himel:** How long do you expect to be?

**Mrs. Himel:** Well I would like to say a few words. I won't make a speech like Mrs. Wisman has.

**Mr. Acting Chairman:** If the committee would entertain that, we could, in effect, be on target. If you would come forward, I think the committee is probably anxious to ensure that those people here have a chance to get away for lunch shortly, and so they'll be keeping that in mind.

**Mrs. Himel:** I just want to say that I have a house which is a rooming house, a lodging house; and since the law passed in 1975 I find the situation getting worse and worse.

Tenants seem to get to know the law, which is fine, but they do take advantage of us. A tenant moves in and pays us one week's rent and the last week's rent. He lives one week and the second week he says, "This is my last week," and when I come to get my room back, he's still there. And he says, "I'm sorry, I decided to stay. My cheque from welfare didn't arrive, or my employment cheque didn't arrive, or I left my job and I'm not qualified for unemployment insurance but I will go on welfare." I'm getting stories, and the tenant stays on.

Sometimes the tenant will promise me, "Next week for sure I will get some money from here or from there." I come to the door and the money isn't there. Then you wait another week. He tells you nicely, "I will, for sure, be able to pay you next week."

Then you go ahead with the notice, a legal notice. It takes three months. A tenant has paid me for only two weeks' rent. I have to evict him plus the hardship of going through the courts.

I happen to have a handicapped husband. I have to do it myself. These people do take advantage of us. And we had one case in January, then another case in February and

another case in March. It's a small house and it's getting around that people can live rent-free. There's no problem for them moving in and living there two weeks and being able to stay there for three months.

The last case we had was a tenant who moved in alone, and the next week a girl moved in with him. And after the girl, came one big dog. Mrs. Wisman knows it.

The next thing was that I had another fluffy dog. In one room. It's a shared kitchen and washroom. The people washed the dogs in the same bathroom. They were noisy. The dog had that wool stuff all over the place—because the floor is covered with rugs. Eventually, when the tenant moved out, I had a judgement against him, but to find him would cost me hundreds of dollars. And nobody ever collects.

Since then I had another two cases in the same house which I took to court and another two judgements. The judgements are not worth one penny.

**Mrs. Wisman:** That's right.

**Mrs. Himel:** I have judgements but I have no money to pay my bills right now. And it's absolutely the way I say it. This is the truth.

We're behind with taxes, we're behind with hydro, and we're behind with the heating bills. I somehow manage to pay the mortgages. And the situation is getting worse and worse. Plus everything else. When I had the dogs in the house I was scared to go in. One was a German shepherd dog which he picked up in the street. I didn't know what kind of disease it might have. I called the health department. I called the city hall. I called the police department. Nobody came to my help.

The problems seem to be known already, and I guess it's clear. I would suggest that rooming houses, furnished houses, should be classified as hotels, because by nature the tenant is a transient. He lives one, two, three weeks, a month; sometimes if we're lucky he stays for three or four months.

A tenant like that cannot go under the same law as a tenant who moves into an apartment with furniture and everything. Most of these people have very little.

It is my suggestion that it should be absolutely taken away from the Landlord and Tenant Act.

Thank you very much for listening.

The committee recessed at 12:50 p.m.



## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
Campbell, M. (St. George L)  
Dukszta, J. (Parkdale NDP)  
Epp, H. (Waterloo North L)  
Kennedy, R. D. (Mississauga South PC)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Rotenberg, D. (Wilson Heights PC)  
Scrivener, M. (St. David PC)  
Walker, G.; Acting Chairman (London South PC)  
Warner, D. (Scarborough-Ellesmere NDP)  
Williams, J. (Orile PC)

### Witnesses:

Burton, Richard M., Multiple Dwelling Standards Association  
Himel, Mrs. I., Toronto  
Swords, Ms. C., Parkdale Community Legal Services  
Walker, M., Research and Editorial Director, Fraser Institute, Vancouver  
Wisman, Mrs. L., Landlord's Self Help Centre





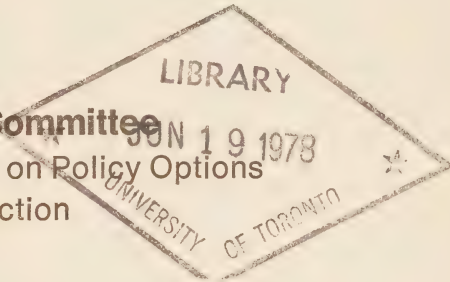
No. G-16

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### Second Session, 31st Parliament

Wednesday, May 24, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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## LEGISLATURE OF ONTARIO

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WEDNESDAY, MAY 24, 1978

The committee resumed at 2 p.m.

### TENANT PROTECTION

(continued)

**Mr. Chairman:** Would you identify yourself and your group, please?

**Mr. Forder:** Thank you very much, Mr. Chairman. I'm Paul Forder, the director of political education and public affairs with the Ontario Federation of Labour, and with me I have Lou Lenkinski, our administrative assistant, who may want to answer some questions which you may have with regard to our brief brief. I want to thank Mr. Nokes for guiding me through the complicated procedure of coming before this committee, particularly at such short notice.

I know the committee has been limiting its discussion to landlord and tenant concerns this afternoon—

**Mrs. Campbell:** That's right.

**Mr. Forder:** —tenant concerns this afternoon—but in the light of the fact that the brief is a very short brief, Mr. Chairman, I would appeal to the members just to allow me to deal with the matters that we raise, and they do very briefly cover other subjects.

**Mrs. Campbell:** Mr. Chairman, the difficulty is that this is one which is coming in out of order and there are people listed for 2 o'clock. I think it should be as brief as possible.

**Mr. Forder:** It will be. Thank you, Mrs. Campbell.

**Greetings:** We are pleased that the government is committed to continuing a program of protection for tenants beyond 1978. Indeed, the recognition that protection is needed post-1978 is a most encouraging sign to the Ontario Federation of Labour. We originally supported the concept of rent review, which led to the passage of the Residential Premises Rent Review Act, on December 18, 1975. During the hearings of the select committee studying bills 20 and 26 in 1975, the federation's submission was one of the very few which addressed itself to the causes of the problem rather than simply to the immediate crisis, that of the

unconscionable rent increases which were being experienced by tenants.

In 1975 there was much justification for government's intervention into the controlling of rents. With a low vacancy rate or factor for the rental housing sector many landlords took unfair advantage of the situation and squeezed rent increases of 40 to 50 per cent, and in many cases more, from unsuspecting and unprotected tenants.

As well, rental housing starts had been declining at an alarming rate in the year 1974 and 1975. Since over 90 per cent of Ontario's rental housing is privately owned, and with control of the market almost exclusively in the hands of the private sector, it is only fair to conclude that they were mostly to blame for the crisis in the rental housing market.

Truly the private sector, as the main delivery system for housing and for rental housing, quite frankly has flubbed it. They have proven beyond a doubt that they alone are incapable of housing Ontarians at affordable prices.

Furthermore, even with federal and provincial subsidies to the private sector to build rental housing, amounting to approximately \$7,700 per unit on 12,200 units in Ontario in 1976, the private sector has not been able to provide an adequate supply of sound, affordable rental housing units. Public subsidies in the millions of dollars to the private sector for rental unit production without any control or return is not our idea of meaningful public involvement in the market. In fact, we think these giveaways to the private sector are a misuse of the taxpayers' money.

We remind the committee that although rental housing units were up marginally in 1977, they nonetheless have fallen far short of the demand, as evidenced by the further decline in the vacancy factor in Metro—now 0.9 per cent, down from 2.2 per cent in October of 1975. We realize that the vacancy rates in other cities throughout the province have improved ever so slightly, but this province can ill afford to ignore the plight of Metro tenants who happen to account for more than one third of the rental housing population in Ontario.

There are no indications that the upward pressure on rental housing charges is easing or will be eliminated in the near future. This being the case, we urge that the rent review program be improved and continued to ensure adequate protection to those who rent accommodation.

Other proposals in the rent review program are:

1. That rent review coverage should be extended to all buildings which were exempted from controls in 1975. There is no need to exempt new units. A formula to work out a fair rent which will guarantee a reasonable rate of return on investment should be established.

2. The program should be continued until an adequate, affordable and sound supply of housing and rental units are available.

3. The yearly maximum allowable increase on rents should be reviewed carefully, taking into account factors such as lower interest rates, tax adjustments, et cetera.

Regarding residential tenancy disputes, we recommend that the committee consider forming an agency to deal with tenant-landlord matters. Provincial residential tenancy boards and tribunals similar to those in British Columbia appear to be a viable solution to the many residential tenancy disputes, and I am sure the problems that Mrs. Wisman alluded to earlier would be better dealt with in this regard if this tribunal concept were adopted.

The British Columbia system appears to be a viable solution to the many residential tenancy disputes. Of course, a British Columbia concept would have to be tailored to fit Ontario's needs, but the BC record of service with regard to information, advising, mediating and resolving disputes is an impressive one.

Before concluding, we would like to address ourselves briefly to two matters which we raised earlier in the early part of this submission: One, attacking the cause of the problems in the housing and rental housing markets; and, two, the large sums of public money which go to subsidize the private sector in the constructing of rental housing units.

We think it is imperative that this province adopt a responsible land-use policy which will include land banking and recognizing the need for much more public involvement in the production of housing and rental housing. Why should a lot in Buffalo, New York, sell for 246 per cent less than in Toronto—and that's very modest? There are cases of 400 and 500 per cent less. How much longer can Ontario condone the ripoff of its people?

In regard to subsidizing the private sector to build rental housing we think this money could be better used if it were ploughed into non-profit housing and co-operatives. In this way the government would at least have some form of control, a great improvement over the present arrangements with private builders.

On behalf of our 800,000 affiliates we thank you for affording us the opportunity of input in this extremely important area and we urge you to give our proposals your utmost consideration when preparing your final report. Thank you very much.

**Mr. Breithaupt:** Mr. Chairman, might I ask a question? I am sure these remarks will be brought to the attention of the chairman's colleagues, who haven't been able to join us as yet.

The first question is: You comment on a fair return in that one proposal; do you have any figures as to what you think a fair return would be on the presumption that necessary increases in costs if taxes have been increased, utility costs have been increased, would be passed through as well? Is there a figure, a percentage that you could see equal to bank interest or whatever it might be that would be fair?

**Mr. Forder:** No. We have no specific figure, Mr. Breithaupt. But by the same token, not nailing down any definite figure, the same consideration must be given to tax decreases for apartment dwellers with regard to market value assessment and those sorts of things. Specifically with regard to new structures, we don't feel they should be exempted from any form of control but that a fair rent be established, on a formula determined by this committee or assisted by this committee and the government, to ensure that there is a fair return on investment. We realize that is a fact we have to deal with and that is why we specifically stayed away from nailing down any specific figure, because who knows what a fair figure is without really looking into it in some depth in the specific cases?

**Mr. Breithaupt:** In London we had a suggestion made to the subcommittee there that a fair rate of return would be perhaps in the range at which a first mortgage could be invested in. In other words, perhaps between a 12 to 15 per cent sort of return which the landlord might consider reasonable as opposed to investing money without any problems or concerns at all. Would you have any feeling as to whether that figure would be reasonable?



**Mr. Forder:** It's very difficult to say. Again, I think you'd have to look carefully at the situation. You'd have to look at the mortgage percentage, the rate at which the mortgage was received, the experience of the particular dwelling.

Maybe Mr. Lenkinski, who has some experience in these matters specifically, and who is with me, might have a comment specifically on that question of the 12 or 15 per cent.

**Mr. Lenkinski:** I don't think you can tie yourself down to a specific figure. Even the problem of interest rates on mortgages is dependent on a number of other factors. For example, the government is using Bank of Canada prime lending rates to determine an amount of money that is being charged to banks. In turn, that has a ripple effect on everything else. You cannot really use fiscal methods in that kind of context. I don't know if you can, off the top of your head, come up with a figure and say that you have to keep 15 per cent as a reasonable return on your investment in housing.

**Mr. Breithaupt:** I was thinking, of course, more on the alternative uses that a landlord might choose to put those funds to. They may say they can buy a guaranteed investment certificate or arrange to use that capital in a first mortgage and they'll get a cheque every month without any problems or concerns and get 12 per cent on their capital, so why should they settle for anything less. Do you have any sense as to whether that kind of range would be a likely figure that could be useful, or any reason why it should be less or more?

**Mr. Lenkinski:** Our brief really addresses itself to the area of supply as well. I think in a free market economy the problem of supply should be overlooked. If there is a large government intrusion to build housing at affordable rents for people of low or medium incomes, then obviously that would also have an effect on the supply of private housing. I can't give you an answer. I'm not prepared to do it. I think that would be going too far out on a limb. You have access to economic data. You know what the situation is and I think that if the concept is accepted you can come up with a reasonable figure.

**Mr. Hall:** I have a couple of short questions. Your first sentence is based on what?

**Mr. Forder:** It is based on the policy options for continuing tenant protection, the green paper, which in it enunciates—

**Mr. Hall:** It also lists termination as one of those, does it not?

**Mr. Forder:** No, it's more specific than that.

**Mr. Makarchuk:** There was an assumption.

**Mr. Hall:** It just seems to me that you're making a bit of an assumption there, that's all. I wanted to clarify that.

**Mr. Forder:** No, it's more than an assumption, sir. It addresses itself rather specifically to the question. It says: "Ontario's current rent review program was conceived as a temporary program complementary to the federal government's anti-inflation program which is scheduled to expire December 31. The Ontario government has announced that it will continue a program of protection of tenants beyond 1978." That is in the introduction on page four.

**Mr. Hall:** For the landlord and tenant protection, yes, but I'm talking about rent review itself, which is part of our concern here.

**Mr. Forder:** It talks about tenant protection and it seems to me that rent review is, surely, tenant protection. It's more than conjecture.

**Mr. Hall:** On the top of page two, you make a very strong statement that the private housing industry "quite frankly has flubbed" it. What other countries in the world are better housed than Canadians are? [2:15]

**Mr. Forder:** If you want to start talking about worldly figures. I haven't flown in from any place. I've come down from Don Mills to talk to the committee today, so I don't have a worldly knowledge of what's happening around the world, except to say that if we look at a recent comparison of lots in Buffalo and Toronto I think it tells the tale. Where we have an identical lot size—in fact, it's larger in Buffalo, 7,800 square feet vis-à-vis 6,600 square feet here—the lot price here is \$35,000 and the lot price there is \$7,500.

When we talk about the private sector having control of 90 per cent—and obviously you have shortages and obviously this report addresses itself to the decline of rental accommodation since 1974-75 and going into 1976 and in 1977 it's picked up marginally—of public rental starts, the evidence is there in this report. It's not a guesstimate on our part. It shows that they haven't been able to provide in terms of affordable housing.

**Mr. Hall:** That's not the only factor that would enter into it, surely, is it?

Mr. Forder: Pardon me?

Mr. Hall: In our whole problem of land-use planning, you're not suggesting that all those factors of delay and type of subdivision approval, or what have you, don't enter into it when you make a comparison with New York State and Ontario?

Mr. Forder: I'm not suggesting that.

Mr. Hall: Standard of services and all those factors?

Mr. Forder: Yes, sure, our interest rates are two or three per cent—

Mr. Hall: If there's such an easy solution to this housing problem, really, I think we'd be greatly interested in it. I don't think it's that easy.

Mr. Forder: No, we didn't suggest for a minute that it is easy, but we did suggest that this government hasn't been following a policy which has brought about a result favourable to the people of this province. We think that a massive land-banking program would be one answer to it.

Mr. Hall: Such as Malvern, do you mean?

Mr. Forder: Publicly controlled land banks drive speculators—

Mr. Hall: Can you give me any examples of a public land-banking program to put housing on the market in Ontario that, in your view, has been a great achievement?

Mr. Forder: What is wrong with providing people with housing at affordable prices?

Mr. Hall: I'm talking about costs. Where have these happened?

Mr. Laughren: The Tories have made a profit on it, Ross. What do you expect?

Mr. Forder: Hold it: I'm not—

Mr. Hall: You're advocating that we go further into the public sector in doing it.

Mr. Forder: Do you want an answer to the first one?

Mr. Hall: No, I'd like you to answer it.

Mr. Forder: That's what I asked you. If you want an answer to the first one, what we're saying is that the commitment of this government has not been in the serious direction, which we address ourselves to, of preventing people from buying up huge land tracts so that they can benefit tremendously, because the average price of lots in this country is 246 per cent greater vis-à-vis the United States.

If you want to say that we've got a Malvern development, or another development here or there, I'm saying to you that our research shows there are nine developers in and around Metro Toronto who control

enough land to provide Torontonians with homes for the next eight years. That is sheer monopoly control and that is not healthy and that is not competitive and that does not do anything for people who are looking to be homeowners.

Mr. Breithaupt: How is that problem resolved by rent control?

Mr. Hall: I understood you to say that you were going to put it more in the public sector to resolve some of these problems because the private sector can't do it. This is your suggestion that we go to the public sector.

Mr. Forder: Yes.

Mr. Hall: The problem I'm struggling with is, in its examples where the government has gone into the public sector so far, in instances such as Malvern, the lot prices are just as high. That's the thing that I'm talking about.

Mr. Forder: Yes, but we're not talking about half-hearted attempts that are a result of pressure being brought upon by a need in society. We're talking about a full commitment. You don't talk about—I don't think at least—a short-term experimental basis of taking a tract of land and seeing what we can do with it and then basing your program on whether that one was successful or not. I think it takes a long-term commitment. I'm not suggesting it's easy. I'm suggesting that land banking is a viable alternative to keep down the prices for people and put more homes on the market. That will alleviate the pressures that are presently on people who want to buy homes and people who are in rented accommodation. I'm suggesting that those are viable alternatives.

Interjection: And we pay for it.

Mr. Chairman: Excuse me, let me just make a comment, Mr. Forder. You compare the price of a serviced lot in Buffalo, of all places . . .

[Interruption in recording]

Mrs. Campbell: . . . as well as investing in it, yet that is not a Canadian experience in this field. I'd like to understand that.

Mr. Lenkinski: Very superficially again, I wasn't prepared to answer that question; but New York City is a good example of what you have just stated.

In New York State trade unions have established co-ops but they also obtain slum clearance land from the municipalities at costs that they could afford to put on the market at reasonable rents. The same also applied with access to money.

Well, all I can tell you is that we do not speak for the whole of the trade union movement but we have money available in pen-



sion and trust funds. But it would be grossly unfair of us to provide money, which is supposed to pay pension payments to retired members of unions, at a lower rate of interest than you can obtain elsewhere.

What I'm saying really is this: Give us this slum clearance land that the United States governments provide to trust funds of unions, give us access to money at proper interest rates and you'll see that we probably will have a Canadian experience similar to that of the United States.

**Mrs. Campbell:** May I say that at the time I was discussing it with David Archer we were in the urban renewal business in Toronto and the land was available at these written down prices. But we still couldn't get that kind of involvement. Perhaps today we could.

**Mr. Lenkinski:** Perhaps it was a mistake, Mr. Chairman, that Mrs. Campbell left the municipal field and went to the province, because it seems to me that the tendency on the part of municipal governments is now to move out of provision of public housing.

**Mrs. Campbell:** Not in Toronto. No, I think that's unfair, Mr. Chairman. I think the council of the city of Toronto is moving to the best of its ability with the limited resources allowed to them by the province, to continue to provide public housing.

**Mr. Lenkinski:** I'm aware of that, but it's a gap of time from the previous years to now. That is completely lost.

**Mrs. Campbell:** Of course.

**Mr. Chairman:** I was about to say that the city's loss was our gain — until Mrs. Campbell made that last statement.

**Mrs. Campbell:** Well, you said it anyway, thank you very much.

**Mr. Chairman:** I meant it too. Mr. Laughren and Mr. Makarchuk, and then I think that that should conclude the questions.

**Mr. Laughren:** Just very briefly: I'm sure that people who followed the problems in the rental market in a serious way, and without a vested interest, I might add, or who do not have a doctrinaire position would admit that the—

**Mr. Hall:** Any clear thinker.

**Mr. Breithaupt:** Any reasonable person.

**Mr. Laughren:** That's self evident. Day to day.

**Mr. Epp:** That excludes everyone here.

**Mrs. Campbell:** That excludes all of us.

**Mr. Laughren:** Why do they make it so hard for me not to be provocative? I'm trying to be non-provocative.

Well, surely Mr. Forder would agree that this committee wouldn't be sitting if there wasn't a problem in the rental market, and that that's why we're here.

**Mrs. Campbell:** Everybody knows that.

**Mr. Laughren:** Exactly.

**Mrs. Campbell:** Have you any solutions?

**Mr. Laughren:** Well, in this case, we do. It seemed to me that something Mrs. Campbell touched on was the whole question of co-operative housing and so forth. And I wondered whether or not you were aware of any federal or provincial programs that would allow you to say to your membership—your 800,000, who I know are not like the membership of a union; They're just unions affiliated to the federation—"Here's a program that we want to make available to you to help your membership." Is there anything like that?

**Mr. Forder:** I would like to remind you, I originally came from Windsor, Ontario, where we built a 300-unit complex, a co-operative dwelling, with the seed money from my local union at that time, which was the United Auto Workers Local 444. Subsequent to that we did get a CMHC mortgage and the building had some difficulties. There were some laws which don't apply to people who end up in a co-operative situation that applies to those people who are private owners, in terms of depreciation et cetera. But the trade union movement in Windsor took that challenge very seriously and with enthusiasm. And I would suspect that where there is an opportunity and when it presents itself—if there is a commitment on part of government to move in that direction—we would keep open minds on the subject, and I'd surely want to work with you in that regard.

**Mr. Lenkinski:** Let me just add a couple of words. There is a labour council development foundation in existence in Metropolitan Toronto. This is a foundation that started to build some housing to upgrade the existing housing stock in slums and that kind of thing. Now, there is a grave danger that the foundation is going to fold. And it is going to fold, not because of the fact that there is not enough interest on the part of the labour movement, it is because of the bureaucratic rigmarole that is placed upon them every time they come in with a project to get it approved and to get money for it.



[2:30]

I can tell you that at least 15 times the legation went to see members of Parliament in Ottawa to intercede on their behalf with the Central Mortgage and Housing Corporation and to put it on stream. The same is also true in the province—and I'm not trying to exonerate the province—you cannot have an encouragement on the one hand that exists in legislation and put there all kinds of technical stumbling blocks. That's the situation as it really is.

**Mr. Breithaupt:** But you want more government involvement.

**Mr. Lenkinski:** Because there's no other alternative.

**Mr. Forder:** No, I think obviously the commitment, Mr. Breithaupt, is to have a long-term commitment in this regard in a very meaningful way, not a very superficial way.

**Mrs. Campbell:** That's interesting, because it seems to me that that is an item which should now be considered for our report, because if we have people like this prepared to enter, then we certainly should be trying to remove the roadblocks to get on with it. I appreciate getting that information.

**Mr. Makarchuk:** I just want to comment on some of the things that have been said, and also on what Mrs. Campbell said. In terms of servicing costs, there is the assumption that it's so expensive; I question that assumption. There are figures available, and I think one of the best examples we had before us was when we were dealing with Ronto, a situation which some of the people over here are acquainted with. There were figures submitted about the cost of servicing of a subdivision that ran into 500, 600 or 700 lots or something of that nature. The costs were there and they were not unreasonable. If you go to some of the municipalities or you discuss home-ownership programs that the Ontario government has been involved with, you find out that the servicing costs are within the working area. There may be some variations, depending on whether you're using steel pipe or iron pipe, or asbestos pipe or something of that nature.

On the other point, the matter of union involvement. As an example, the United Auto Workers Local 397 in Brantford tried to start a housing project, and they had to deal with Central Mortgage and Housing Corporation. Every time we came to them with a proposition they said, "Okay, if you change it this way and this way you can go ahead with it." We changed it to what they wanted

and they brought in another obstacle. In effect, they continuously blocked us. It seems to me that there is, on the part of the federal government at least, a desire not to permit unions to go ahead.

In other areas where the trade union movement tried to get in—and again I'm speaking from personal experience—they were unable to get land at a price which would make the housing reasonable. They can bring in some marginal improvements in terms of the profit on the construction, but profit on construction itself isn't that high. It's through the final effects that it'll be reflected, either in rent or construction. Those are some of the other problems.

The third problem is that when we were trying to get a municipal project under way with the trade union movement, and the trade union movement was prepared to be involved in it, the Liberal members of the municipal council killed the project. So that was another problem I couldn't do anything about.

**Mrs. Campbell:** Would you know whether the private person trying to get Central Mortgage and Housing Corporation funds goes through this same ordeal? Are you suggesting that the government is doing this only for unions or is it possible that private people, private developers not involved with unions, are having some of the same problems?

**Mr. Makarchuk:** They may be. But in this case when we were working with the UAW in the Toronto building foundation, or whatever that labour group is called, it seemed to be that every time there was a problem with CMHC we would overcome one set of obstacles and they always had another one up their sleeve.

**Mr. Walker:** Mr. Forder, perhaps you can clear up what I think is perhaps an inconsistency. The Ontario Federation of Labour took positions all through the wage and price control controversy of being against a wage control in any way, shape or form. Am I correct in that?

**Mr. Forder:** No.

**Mr. Walker:** Then that destroys my question because my preconception was that the OFL has taken a position against wage control.

**Mr. Forder:** Why don't we deal with that one? One of the members suggested that we were against the Anti-Inflation Board, which we were. But we were not against wage controls in any shape or form, as you put it. We are for planned economy, and we have been on record for supporting the planned economy. But when you want to control

workers' wages and don't control 65 per cent of the expenditures that they have, initially—housing, fuel, food; those factors which were obviously harder to nail down—if you can' come up with a comprehensive program to control them, then we felt it wasn't fair to end up controlling workers' wages when those other things would be allowed to rise.

**Mr. Walker:** So what you are saying is that there is an argument to say that one sector of society should not be controlled unless all sectors of the society are being controlled.

**Mr. Forder:** No, there are situations in society where there is undue advantage, and that has been shown. Let me tell you personally, my rent increased from \$244 in 1975 to \$370. Rather than stay there, before rent control was introduced, I left there and it cost me \$360 to move from that situation, and I was one of the victims in Toronto at that time to suffer that sort of thing. I understand that is not the case with every single tenant-landlord relationship, and surely not the case with those people owning duplexes and triplexes and housing units for transients; those situations are different; and I think that Mrs. Wisman and the other lady put that very well. We are not suggesting that that situation doesn't require some attention.

**Mr. Walker:** But didn't you say that you did not think it was appropriate that wage earners should be controlled in what they receive when other sectors of society were not properly controlled? Isn't that what you said?

**Mr. Forder:** Yes.

**Mr. Walker:** What I find as an inconsistency in your argument is now for you to say that landlords should be controlled in their receipts. How do you balance the one against the other? Or should it be, perhaps, that landlords should be organized under the OFL to receive the benefit of your federation?

**Mr. Forder:** We would welcome them into the house of labour too, except that they might find a conflict of interest. But I can tell you right now that Mr. Lenkinski is a small landlord—

**Mr. Lenkinski:** An organized small landlord.

**Mr. Forder:** —similar to some of the other people you have heard from here. I want to reassure the committee that there is nothing inconsistent with our brief today. Workers are controlled in society. The unemployment rate in this country, one million right now, controls workers' wages and the amount which they are able to get at the negotiating table. I'd like to remind you that only 35

per cent of the Canadian work force is organized; and you also have a control of a minimum wage to pay those other people in society. So there is nothing inconsistent. Workers have been controlled from day one.

**Mr. Walker:** I would like to remind you that when we sign agreements we are controlled for three years in cases where we sign three-year agreements and two years where we sign two-year agreements.

**Mr. Walker:** You contract for a certain arrangement, as indeed other people do, perhaps.

**Mr. Forder:** So there is a great degree of control.

**Mr. Walker:** All right, but I suppose you could say that if unemployment is the control the wage earner has at this moment in time, which operates as an umbrella or a pressure point beyond which he cannot rise, then by the same token vacancy rate probably has the same effect on rent increases.

**Mr. Forder:** Sure.

**Mr. Walker:** So the argument boils down to one of what is the vacancy rate, and that determines whether or not we should have rent control.

**Mr. Forder:** I see Mr. Docherty is suggesting that a four per cent vacancy factor would allow the market to operate freely, but right now in Toronto with 0.9 per cent as a vacancy factor, I think you will have to agree with me that the pressure is immense, considering that it was 2.2 per cent in 1975 when you introduced controls. We have deteriorated further since that time.

**Mr. Walker:** So extrapolating your argument: If we had a 3.5 per cent or four per cent rate of unemployment which would be deemed by most to be full employment—though perhaps not accepted by some people—are you saying that in that case we should have a wage control?

**Mr. Forder:** Mr. Walker, I can tell you right now that if there were three per cent of the work force unemployed, if you had relative stability in the economy and you can't isolate workers—and worker's wages have always chased prices, it hasn't been the other way around. In fact, even the Wall Street Journal, not exactly a union-produced newspaper, supported that argument that worker's wages have always chased prices.

I am saying that if you bring in some relative price stability that workers' wages, workers' demands, will not be what they are when of course inflation is in the double digit area, and their prices are going up.



Fuel is an example, at \$2.75 a barrel in 1973 going to \$13.50 by January of 1979. It quadrupled.

Those sorts of pressures are things that workers have to take into consideration and in the production and manufacturing of goods they purchase. When they purchase, that also produces employment for people who are in the industries providing those goods. So I think it is all relative.

I know what you are trying to say but I don't think you can isolate workers' wages and say we are being inconsistent by saying controlled rents. We are saying review it and come up with a fair return. But we think the pressure is just too immense at this time to remove the controls completely.

Mr. Walker: Excuse me, when I look at the inconsistency and say that I don't understand how you rationalize the difference between the two. On the one hand, you are saying that wage-earners' wages should not be controlled. On the other hand, another sector of society's wages or income should be controlled. I can't see how you reconcile that difference.

Mr. Forder: Wages are controlled.

Mr. Chairman: I don't think that Mr. Forder and yourself will ever agree on it. I know damn well that you won't.

Mr. Walker: One question: Where did you get your figures on page two for vacancy rate in Toronto? You may have answered that while I was out.

Mr. Forder: I got the vacancy factor from the policy options that said one per cent, and our researcher came up with the figure 0.9 per cent, so that it should drop by an additional 0.1 per cent.

Mrs. Campbell: His figures are closer to CMHC's, I will tell you that.

Mr. Walker: I can believe that. Anybody would be closer to CMHC's.

Mr. Chairman: Mr. Forder, thank you very much for your time and your excellent comments.

Mr. Forder: I want to thank you very much. I kept my end of the bargain by keeping it brief. I do not accept the responsibility for the questioning. I do appreciate it. Thank you.

Mr. Chairman: Thank you. Margaret Skinner.

Mrs. Campbell: She is not coming.

Mr. Chairman: Mr. Patterson, the Social Planning Council of Metropolitan Toronto. We don't have a copy of your brief, Mr. Patterson. Am I correct?

Mr. Bellamy: Mr. Chairman and honourable members, I believe that the brief was delivered to members yesterday.

Mrs. Campbell: Individually?

Mr. Bellamy: I assume it was delivered to the office of the committee.

Mr. Chairman: I don't have one. Mr. Patterson, the members of the committee do not have a copy of the brief. If it is upstairs, as I am sure that it is, Mrs. Nokes will see that we do get it. I wonder, since it looks like a lengthy brief, if perhaps you would just highlight it for the committee.

Mr. Bellamy: Mr. Chairman and members, first I would like to make a correction. I am not Mr. Patterson, I am Donald Bellamy, a board member and volunteer with the Ontario Welfare Council. I am leading this delegation today as chairman of the Ontario Welfare Council's committee on housing policies. I am to present a brief jointly from the Ontario Welfare Council and the social planning council.

In this endeavour, I am flanked by Mr. Jeff Patterson, who is the research director of the Social Planning Council of Metropolitan Toronto and Mr. David Kennedy, who is the co-ordinator of research for the Ontario Welfare Council. These two gentlemen are the experts and should we get into technical questions, I will, if you will, call on them for assistance. The brief, Mr. Chairman, does run to 27 pages and so perhaps by speaking to it, I can save you 90 minutes of listening and I am sure you will appreciate that.

[2:45]

Just a word about the Ontario Welfare Council and the social planning council and the housing committee. The committee itself is a representative group of people—some experts and some lay people, tenants, academics, and planners from as far away as Thunder Bay, or the Lakehead I should say, Ottawa, Hamilton, Guelph and such places. Our two councils, as you may know, represent social planning interests in the Metropolitan Toronto area on the one hand and on the other across the province. Ontario Welfare Council, in fact, has a social planning councils committee with 60 communities involved in that activity.

Mr. Chairman and honourable members, at the outset I would like to draw special attention to two issues which we think the green paper did not deal with. First, and I am referring to page three in our brief, an item which deals with the point that the nature of the current rent review program in the province of Ontario has been somewhat mis-



represented inasmuch as there is a tendency in the green paper to characterize the program as placing a ceiling on profits and we don't in essence think this is appropriate.

We also regret the fact that there is little or no discussion of rent levels likely or desirable, either from a market or tenant point of view. That's something we didn't go into but which we did identify as a gap in the brief. The particular section I am referring to closes off page five with a question: "Why should a rent review program which may effectively protect the security of tenure of residential tenants but which does not appear to have unduly constrained landlords be terminated?"

One of our board members, our vice-president, in discussing this the other day, asked the question: "Why continue the program if few are involved?" Our answer to him in general went along these lines and, if I may, I will read this to you as what we regard as the reasons for continuing to support rent review:

First, that security of tenure cannot be maintained if landlords can arbitrarily evict a tenant through crushing rent increases.

Second, the continuing shortage of vacant rental units in Metro Toronto would probably contribute greatly to an escalation of rents if they were left to be determined by private market forces. Those displaced by large rent increases would have few alternative housing choices.

Third, very little has been done to deal with the affordability of rental accommodation. Low-income households are probably no more able to afford rents in the private sector than they were before the imposition of the Ontario rent review program in August 1975.

And, fourth, the province of Alberta, after announcing its decision to end rent review in March 1977 was forced to reverse its plans after one month in which many tenants began to complain of rent increases as high as 30 to 40 per cent. Obviously, we would be fearful of a repetition of that experience here. If large rent increases similar to those reported in Alberta were to occur in Ontario after rent review, this could lead to greater inflationary pressure on wages.

We presented this argument to our board member and proceeded with adoption by our executive and by the social planning council executive subsequently.

**Mrs. Campbell:** That should've shut up the board member.

**Mr. Bellamy:** I notice that members still don't have the document and won't have for some time, but for the record I will make

reference to page numbers which might be helpful. One of the things that we do, on page six, is to address ourselves to the question of affordable housing; we acknowledge that the demand for rental housing is dropping off, but we still regard it as significant. We believe that renting is and will continue to be a significant problem for an important segment of low-income people and a great deal needs to be done in order to meet the needs of that particular segment of our population. Economically it's difficult to build rental housing of any sort, we recognize, but this is particularly so for lower income rental.

At page eight, we summarize that particular section. If I may, I'll read that. "The Ontario Legislature and the government of Ontario will have to balance requirements for a healthy market with the need for affordable housing. They will have to decide what rental levels or patterns are desirable in light of evidence on the economics of the rental market and future requirements for rental housing. They will have to decide what rent levels Ontarians can afford to pay in the light of the evidence in this respect as well. We have tried to show in the foregoing section that the answers to these questions are difficult to obtain."

We come later, at page 11, to a section on the operation of rent review, and here, because the green paper was silent on the workings of rent review, we endeavoured to obtain supplementary information to the extent it was possible. We secured some case studies of rent review in Toronto by staff of the Ontario Welfare Council and social planning council. We secured some case studies by the housing committee of the Ottawa-Carleton Social Planning Council and we also had some data supplied by a group of industrious students from the University of Guelph who worked in Waterloo in some highrise buildings and made a study of the awareness of rent review.

I simply draw that to your attention as some supplementary information that we pulled into this analysis. With regard to the permissible increase, at page 11, we're not particularly clear why so few record cases went through review and we address ourselves to this question in subsequent pages. We address the question of how high the guidelines should be set and didn't, unfortunately for committee members, come up with a figure, but we did identify the fact that there was a danger of an inflationary effect if the maximum that you set becomes the norm.

**Mr. Chairman:** May I just ask there—and we're still waiting for the brief, which I think is somewhere in the building—I'm just curious as to what kind of exercise you went through to determine what might be—

**Mr. Bellamy:** How to go about finding out about what might be an appropriate level?

**Mr. Chairman:** Yes, what did you do?

**Mr. Bellamy:** We simply decided that there should be some form of scientific survey which could provide an answer. It wouldn't necessarily be a fixed amount from year to year, it would vary according to some kind of market test, or some kind of scientific survey.

**Mr. Chairman:** But you didn't come with a recommendation?

**Mr. Bellamy:** No.

**Mr. Chairman:** Okay.

**Mr. Bellamy:** With regard to the administration of rent review, at page 15 of our document we had some comments with regard to the discretion of officers in the program. We found, in general, that there was too much discretion. We believe that it should be curbed by various means, for example, legislation and the use of administrative guidelines. Although I personally don't have direct knowledge of the experience in Quebec, I am given to understand that there is an effective and relatively objective application of guidelines in the province of Quebec and it might be something worth looking at, if it hasn't already been done so.

With regard to the suggested decontrol, we disagree with the proposals that appeared in the green paper. With particular regard to small buildings and limited dividend housing, we believe that controls in these instances should be retained and in the document, pages 18 to 23, we discuss the reasons. The pages I gave are actually pages in our brief, so we spent five pages discussing that.

Then we conclude with some recommendations, after some further discussion, recommendations first with regard to the rent review program. There are letters A to N, and I am afraid I can't count how many that might be. We did want to emphasize those which are designated A to F and L. If you put those recommendations together, the upshot of it would be a statement to this effect, that there should be a permanent rent review with a rent index guideline adjusted yearly, with rents registered in assessment records, past rent declared by landlords to new tenants and with

review based on the building, not the unit, and with reference to all tenancies.

Finally, we closed with some remarks and recommendations about the Landlord and Tenant Act. The two things we wanted to stress here are that we are not recommending linking landlord and tenant adjudication to rent review, for a variety of reasons, but particularly the whole question of administrative technology. They appeared to be radically different kinds of programs and with different required technologies. I'm sure there may be other reasons.

Secondly, we supported removal of landlord-tenant disputes from the court system and option four on page 36 in the green paper, with regard to a tribunal to adjudicate as much as possible, was our choice of the machinery that would carry out that function, Mr. Chairman. All of this is respectfully submitted and we trust that it will be helpful in your policy decision.

**Mrs. Campbell:** Mr. Chairman, in view of the fact that Mr. Bellamy and his committee had the opportunity of expertise from across the province in coming to these conclusions, could you help us by letting us know whether you feel this is something which should be continued across the province or whether there are areas such as Metro which have a special problem? We do hear from people from time to time who feel that rent review is really irrelevant in their area and it is not needed, but obviously anyone from Metro Toronto is very much concerned about any suggestion of eliminating it. Can you help us on that basis? Did you have a discussion on sort of a regional kind of difference?

**Mr. Bellamy:** We didn't have the formal kind of discussion that you are referring to and on which I would want to base an answer. We had input from Ottawa, we had some evidence from Waterloo, we had support from Hamilton of a sort, but we haven't done any kind of survey such as you seem to be speaking of. It may be that one of my two colleagues would want to carry that answer further. Would it be in order for Mr. David Kennedy to step forward to the microphone?

**Mrs. Campbell:** Yes.

**Mr. D. Kennedy:** I was talking to Mrs. Nokes. Could you please repeat your question?

**Mrs. Campbell:** Yes. I wondered if you could tell me in your submissions—I believe we now have them but I haven't read them, of course—whether you felt that rent review



as such should be continued province-wide? For example, we know the problem in Metro Toronto. I don't think there is any question about how we'd feel about that, and possibly some other areas. Does it need, in your opinion, to remain apart from the landlord and tenant but the review itself to remain across the province or have you anything that you can tell us about other areas?

**Mr. D. Kennedy:** We didn't specifically investigate the varying market circumstances across the province. I know the committee members are aware that, let's say in Waterloo, for instance, the situation is much different than in Toronto.

**Mrs. Campbell:** And in Hamilton.

**Mr. D. Kennedy:** You can pick examples such as that. We had to take sort of an overview on the general trends. One of the things we have found, though, is that demand projections that are being put forth by Peter Barnard, which is probably one of the only studies that we do have, indicate that in a lot of communities the demand is going to be strong for the next five or more years and the demand really isn't going to fall off until about 1986. I think if you look at those sort of statistics you might be able to get an estimation of it, but I think generally, though, it is hitting maybe certain portions of the market now but it is longer down the future. [3:00]

I know we would be concerned about the lack of any kind of mechanism for rent review purely on the grounds of security of tenure. We did do surveys in Waterloo of landlords' and tenants' experiences with rent review, mainly small landlords, and in some cases there we saw quite large increases for capital expenditures. When there are such large increases, there does need to be some sort of backup for the tenant in certain cases.

**Mr. Duksza:** What did you do in Kitchener-Waterloo? After the presentation of Mr. Bellamy I would describe this as a fairly thorough study. What exactly did you do, for example, in Kitchener-Waterloo in terms of getting the information you are presenting to this committee?

**Mr. D. Kennedy:** We did two things in Waterloo. Because we were not able to find evaluation money to look at this program, we used students and they looked at two things. One was the awareness of tenants of the specific provisions. That was a survey of tenants and a sample of buildings of different sizes. While they were generally aware of rent review, on all the detailed questions it turned out that they didn't know about the operation of the program.

In terms of the impact of rent review on the landlords, our information wasn't as detailed as it was for Toronto. Looking at finances is a complex thing. What we did find, though, was a greater reliance on the operating cost passthrough and some of the capital expenses, especially the capital expense side for the small landlord, which is, I think, a positive feature of the present system because it encourages rehabilitation and maintenance of property.

**Mr. Duksza:** Did you find there was a general acceptance among the tenants and a desire to continue the rent review in that area or in others?

**Mr. D. Kennedy:** Once we got beyond the question of the existence of it there was a great desire to know more about it, which is your first problem, and then to get knowledge to use it. I think the problem at the moment is the question you're asking, are there difficulties with the present program in terms of people's awareness of it.

**Mr. Duksza:** As Mrs. Campbell said, there is talk going around that if we only had rent control in Metro then that would satisfy many interests.

**Mrs. Campbell:** I didn't confine it to Metro. I said there were other areas.

**Mr. Duksza:** No, no, I'm adding to it. Let me move away from what Mrs. Campbell has said to say that there have been discussions that the need for rent control is only in Metro. Of course, I believe that, in effect, this is less related to the housing field and more to security of tenure and it is essential that it be right across the province as a universal right. Do I gather this is how you feel too, or not?

**Mr. Bellamy:** I think Mr. Kennedy answered that the need for it in all parts of the province shows up in a mid-term-long-term view.

**Mr. Duksza:** That's good. The next question was, you were referring to Peter Barnard's study and he was calculating that there was something to do with vacancy rates and the need for rental housing per se, is that what the study was?

**Mr. D. Kennedy:** No. His study was much more general than that. It dealt with general housing requirements over a 10-year period and dealt with the demand side, household formation, and the school system, where there are some quite significant changes coming and those are having an effect on the housing side. It is further down the road than today.



**Mr. Duksza:** So you assume, for example, the modified crisis is upon us right now in terms of supply. It will be much bigger later on, according to his study?

**Mr. D. Kennedy:** No, we start declining over the next 10 years.

**Mr. Duksza:** Declining, yes. There will be less need for housing?

**Mr. D. Kennedy:** In general, yes.

**Mr. Duksza:** In general, I see. Thank you. That is Peter Barnard Associates, is that the one?

**Mr. D. Kennedy:** Yes.

**Mr. Samis:** I just have three brief questions. First of all, I apologize for my ignorance, but not coming from Toronto, can you give me a little more background and the composition and nature of the social planning council?

**Mr. Bellamy:** May I call on Mr. Patterson? He is our research director.

**Mr. Patterson:** The Social Planning Council of Metropolitan Toronto is a council made up of individual members and agency members and it represents social planning interest in this city. It has traditionally also done a lot of domestic planning and social planning for the United Community Fund which provides us with about three quarters of our funds.

**Mr. Samis:** Could you tell me how many organizations you represent?

**Mr. Patterson:** Close to 200, mostly social agencies, some tenant groups, some ratepayer groups and organizations such as that.

**Mr. Samis:** What would be some of the main social groups as opposed to ratepayers and tenants groups? Just give me an idea.

**Mr. Patterson:** Various youth services agencies, care for the elderly, Community Care Incorporated—agencies like that, agencies that provide direct services for people in the—

**Mr. Samis:** The second question: you mentioned the situation in Alberta and I believe you are the first person, other than Mr. Walker this morning, who has referred to the experiences in other provinces, beyond just a cursory mention.

Could you give us a little more detail on their decontrol program and exactly why they changed within a month; what factors really led to that change and what they changed to?

**Mr. Patterson:** In the process of writing the brief we talked to officials in both Community Affairs and Housing in Alberta and

they told us that in March 1977 the Alberta government announced that it would decontrol rents at the expiry of its rent review program, which at that time was in June 1977, I believe. Within a month in Edmonton and Calgary papers reported numerous instances of tenants receiving rent increase notices of 30 to 40 per cent.

The Minister of Consumer and Corporate Affairs carried out a survey and found that indeed this was widespread, so in April 1977 the minister announced a three-year phase-out or decontrol period for rent review.

As I recall, they set up index numbers similar to Ontario which started out at eight per cent and increased to nine per cent at the end of three years and there were price limits. As soon as housing units went above a certain price there would be decontrol, but the blanket decontrol that they were going to implement had to be retracted within a month of its announcement.

**Mr. Samis:** Did you get any information, when the increase occurred, when the decontrols did take effect, as to what income levels were hardest hit? Has any study or any work been done to assess in that brief period of decontrol, how exactly—you were talking about 30 to 40 per cent increases for example—that was spread in terms of the income scales?

**Mr. Patterson:** I don't know whether that test was applied for the data they had.

**Mr. Samis:** You are not sure?

**Mr. Patterson:** I am not sure. I am sure you could obtain the information from the Alberta Department of Consumer and Corporate Affairs.

**Mr. Samis:** Could I ask, Mr. Chairman, if our research people would do that, get us some information as to how the decontrol program started in Alberta, the changes that were made and where it stands as of now?

I am, and our community is, somewhat influenced by what goes on in Montreal. Do you have any figures on the vacancy rates there? The reason I bring it up is because we are talking about a metropolitan community. They've had a background of a very particular type of rent control in that province.

I'm just curious because I'm not from Toronto and so much of what is being said here is in the context of Toronto. I am wondering how housing relates to the economy of this community vis-à-vis Montreal, their vacancy rate and their rental situation. Have you got any data on that?

**Mr. Patterson:** I don't know the exact situation right now but over the past couple of years the vacancy rate in the city of Montreal, and especially in the east end where the working class live, has been very low. I'm aware that the Quebec government, some six weeks ago, tabled a permanent rent control act in their National Assembly after some 27 years of temporary acts.

**Mr. Samis:** Are you familiar at all with the general nature of that act in comparison to the existing legislation in Quebec?

**Mr. Patterson:** It will simply make permanent for the most part the existing legislation, which has been renewed almost year to year, maybe every second year or something.

**Mr. Samis:** So it doesn't represent any major change then in their policy, it's just putting it on a permanent basis. Could I ask again, Mr. Chairman, if we could get a copy of that or some information as to exactly what the Quebec government has done on that? Do you have any views on how the whole economic situation affects rental spiral or the accommodation factor? The general image, for example, would be that Montreal is in a very serious economic situation, is designated as a depressed area.

The reason I ask is I met some people on the weekend—I didn't do any checking on it—who were telling me how low they found rents in Montreal in comparison with this city. And I ask that because they say that in the context of new buildings which are not under rent control, Quebec style.

**Mr. Patterson:** The only answer I can provide to that is a study that was done some years ago by an economist named Frank Clayton on the differential on rents and housing prices between Montreal and Toronto and he determined in that study that relative to the incomes of the people in the two cities that rents in Montreal are probably equivalent to Toronto. Their rents are lower but likewise so are the incomes in Montreal.

**Mr. Samis:** That's all for me then.

**Mr. Chairman:** Mr Patterson, just while you're there, we did receive in the mail, or I guess it was delivered by taxi, one copy of the brief. Copies are being made now, but I understand that there are one or two small corrections and while you're there at the microphone, if you would be good enough you could perhaps look at Mr. Bellamy's brief and just for the record, at least mention those deletions.

**Mr. Patterson:** Okay. There are deletions on pages 15, 16 and 17. On page 15 it is the third sentence which should be crossed out.

**Mr. Chairman:** Beginning "rent review officers"?

**Mr. Patterson:** Rent review officers. Now page—

**Mr. Duksza:** Page 13?

**Mr. Patterson:** Page 15; the entire sentence.

**Mr. Chairman:** Just delete that one sentence?

**Mr. Patterson:** Just delete that one sentence.

On page 16, the last two sentences in paragraph 4.18, beginning with "significantly," should be deleted.

**Mr. Chairman:** Down to "which—

**Mr. Patterson:** Down to the beginning of—

**Mr. Chairman:** "—would otherwise have demanded."

**Mr. Patterson:** And on page 17, the last sentence should be deleted. Beginning at "rent review" and ending with "landlord."

**Mr. Chairman:** Thank you.

**Mr. Warner:** I'm sorry, where is the last one?

**Mr. Patterson:** The last sentence on page 17.

**Mr. R. D. Kennedy:** I missed 16, would you mind repeating that?

**Mr. Chairman:** The last two sentences.

[3:15]

**Mr. Patterson:** The last two sentences of paragraph 4.1a.

**Mr. Warner:** Why are those sentences being deleted?

**Mr. Patterson:** They're being deleted due to the fact that when we were doing the case studies, there were apparently three columns to be checked by the rent review officer and some of the data was incorrectly taken off the second area. It should have been taken off the third.

**Mr. R. D. Kennedy:** I just had one question. On page seven you go into the ratio of rent increases to weekly earnings, and then you make reference to the consumer price increases over similar periods, and the rent to income ratio working at 25 per cent which is a rule of thumb I've heard since the '30s.

I guess the question is that you say that approximately 17 per cent of our spending is in excess of that for rent; 17 per cent of all renting households are in excess of that



twenty five per cent guide. And this is as '74 as I understand it; is that figure still used and is it still applicable?

**Mr. Patterson:** The 1974 survey by CMHC, which is called the survey of housing units, is, I think, the most recent and most comprehensive survey that's been undertaken, from which one could determine rent to income ratios.

**Mr. R. D. Kennedy:** We still use the 25 per cent guide.

**Mr. Patterson:** Yes.

**Mr. R. D. Kennedy:** Roughly, yes. I notice on table two, the first column—private tenants. A figure of 23,049 tenants are at 26 per cent, which is, presumably, 40 per cent of the 17 per cent, if you follow what I mean; which, using that ratio, would reduce the 40 per cent to around 10 or 12 per cent. Would that be correct? Do you follow what I mean?

**Mr. Patterson:** I'm not following.

**Mr. R. D. Kennedy:** Some 17 per cent of units pay in excess of the 25 per cent accepted guideline. I presume that number applies to this column.

**Mr. Patterson:** Yes. The paragraph from which you're drawing that—paragraph 3.7—does not necessarily relate directly to table two. What table two indicates is the median rent as a percentage of income paid by tenants at different income levels. It indicates—if you're looking at the median situation—that the rent-income ratio does not drop to 25 per cent until incomes reach about \$9,000, which is considerably above the current welfare system.

**Mr. R. D. Kennedy:** Well, in any event, across the board, about 17 per cent of tenants are beyond the usual standard, anyhow—if you go into the public and use supplements and all that kind of thing. I just noticed the significant number at 26 per cent, one over, which could change that 17.

**Mr. Patterson:** Yes. There are even more above that, though.

**Mr. R. D. Kennedy:** Yes, 40 per cent of those above the 23. There are nearly 60,000 tenants above that figure. And the 23 is about 40 per cent of it.

**Mr. Patterson:** Yes.

**Mr. R. D. Kennedy:** Anyway, that's the 17. You're right.

**Mr. Chairman:** Thanks, Mr. Kennedy. Mr. Duksza?

**Mr. Duksza:** The question I had refers to the Alberta situation. It sounds like a warning for us, that if we move to something like that it would be a disaster. I would like you to

express an opinion on what would happen if there was an attempt to decontrol the rent review program here in Ontario, specifically in Toronto.

**Mr. Patterson:** Yes. I'm not sure I could give you a professional judgement on that.

**Mr. Duksza:** An opinion.

**Mr. Patterson:** An opinion, okay. The only thing I could say is that the vacancy situation in most Ontario centres and in Metropolitan Toronto is not as low as it was in Edmonton and Calgary in March '77, which would seem to indicate that if there was an immediate decontrol, such as Alberta had announced in March '77, then maybe the situation wouldn't be as bad as it was last year or two in Alberta. But I don't know how much better it would be. All we can say is that our housing market is less tight.

**Mr. Duksza:** What was their vacancy rate?

**Mr. Patterson:** Their vacancy rate at that time was under one half of one per cent.

**Mr. Breithaupt:** A very disappointing answer?

**Mr. Duksza:** No. That's not disappointing. If you have one per cent then you cannot move that easily, basically. Do you agree with that?

**Mr. Patterson:** That's right.

**Mr. Duksza:** Really, before you can be able to choose an apartment you have to have a vacancy rate of about six per cent, am I not correct? That's what the usual estimate is before there's freedom in the market.

**Mr. Patterson:** I have heard estimates ranging from three, four and five per cent.

**Mr. Duksza:** Maybe up to six per cent.

Now, if I remember correctly, you said that the reports from Edmonton said that the increases were up 30 per cent.

**Mr. Patterson:** Thirty to forty per cent.

**Mr. Duksza:** Are you also aware—and maybe you would know much more than I—that at the moment there are fewer and fewer apartments which have leases, which means that the landlords are waiting for the moment when the rent controls are removed so that they can easily, within days, so to speak, introduce increases in their rents?

**Mr. Patterson:** Yes. I am aware of that. With the amendments in the Landlord and Tenant Act there is less need for leases today.

**Mr. Chairman:** Thank you, Mr. Duksza. Mr. Bellamy, Mr. Patterson, thanks for your time.



Mr. Gathercole, I believe, is here now. Mr. Gathercole has been here before. As you know, sir, this is the portion of the hearings that concern themselves with landlord and tenant.

Mr. Gathercole: First of all, Mr. Chairman, I apologize, because it appears that there was a breakdown in communications. Our information was that we were to be here at 3 o'clock and I understand that in fact we were to be here at 11:30. But I am sure you had enough people who wanted to appear before the committee that—

Mr. Chairman: Not only that, we had all kinds of breakdowns in communications just among ourselves. It's a normal day.

Mr. Gathercole: As you may recall, we were here before on rent review. There were four students who had worked on the rent review portion; there were two students in the clinic program at U of T law school who worked on the landlord and tenant portion of our brief: Mr. Ted Dobson and Mr. Don Brady; and I would ask them to make the initial representation to the committee. They are available to answer questions, as I will be. Thank you.

Mr. Dobson: My name is Ted Dobson. I have prepared a summary but I was told that that is not generally how you like to proceed. I'll keep it a little shorter. We wanted to deal specifically with landlord and tenant matters. We didn't want to involve ourselves in the rent review aspect, inasmuch as we appeared before and dealt with that.

Mr. Walker: Do we have a copy of this, Mr. Chairman?

Mr. Chairman: No, I don't have a copy of the brief.

Mr. Dobson: We definitely had some sent in.

Mr. Chairman: I'll ask Mrs. Nokes when she returns.

Mr. Dobson: Okay.

Mr. Chairman: Just carry on and, if you would, just perhaps highlight your points.

Mr. Dobson: The first portion of our brief deals with our proposal in agreement with the proposal in the green paper that a landlord-tenant relations board be established under some name. The remarks I intend to make concerning that will be closely related to the remarks that my associate, Don Brady, will make concerning the dissemination of information, because we feel very strongly that only through tenants and landlords being fully aware of their rights and responsibilities, and the means by which to ensure

them, can anything meaningful come of a revision of a landlord-tenant law or the creation of a board to settle disputes in a less inhibiting, simpler and faster manner.

Those three "essences," that the board be less inhibiting, simpler and faster, are the basis of our proposal. First, we feel that the present system is rather inhibiting. And although we acknowledge that under the present system legal counsel isn't necessary for dispute settlement, it seems from our experience in representing tenants in these matters that students do indeed feel in need of legal counsel when they appear in landlord-tenant matters now.

We propose that a board be set up so that the process of a dispute settlement would be initiated in a very simple manner. Unfortunately, as you mentioned, you don't have copies of our brief. In the appendix to our brief we have put in two suggestions for the manner of the form which we suggest, one that we took from the Philadelphia Housing Commission and one which we devised ourselves.

The essence of it is that we would like to see a form that would be provided by the landlord in a kind of self-help kit. When the tenant took possession the landlord would be required to provide a little kit that enclosed certain pieces of information that told the tenant of his rights and obligations, and also enclosed in this little kit would be forms that would be used to initiate disputes.

In our opinion, it would be best if they were very simple, so simple that basically it would be a matter of checking off a box and saying we think that the hot water isn't on or whatever it was. At that time the tenant or the landlord, whoever was initiating the dispute, would go to the board and an officer of the board would review the application and would look at it and say, "Okay, we've got this. Now tell me about it." It could all be sorted out.

One of the things that we feel very strongly about is that this type of a board and the informality of it and the lack of a requirement for legal counsel can only function if we can abolish the problem of procedural dismissals. So we would like the format of the initiation of the dispute process to be simple but at the same time have it reviewed by an officer of the board so that the forms would be in correct order. What we'd like to see happen after that is that once we got to the dispute-settling process, in front of the board or whatever it's called at that time, we'd like to see matters come

in and go out with proper notice requirements, so that everybody is completely satisfied that they are able to prepare the defence to whatever charges were being brought up.

We'd like to see that on a very loose basis so that the board wouldn't have to hold several different hearings for any matters between the landlord and the tenant; so that anything that was in dispute between the parties could be brought up during the one hearing and there wouldn't have to be new hearings initiated. One of the things we think would be very important in that light, would be that where a dispute was initiated, and there was a rent review problem that was also in dispute, the board could be set up so that both problems could be handled in the same form.

We think it's very important; we think it's something that has been sadly lacking in the law to date. There is no process whereby substantive offences by the landlord can be brought up in defensive rent review applications, so the landlord at present can apply for rent increases and still be in violation of the act; and we'd like to see the board under some sort of a format where those things could be brought up together and could be used as a defence by the tenant, if in fact there were any outstanding violations by the landlord.

Evidence problems in terms of creation of a board: we'd like to see an act—whatever act sets up the board—avoid any evidence problems whatsoever. One thing we would suggest in that light is that the hearing officer of the board be specifically allowed the power to inspect the premises in question in the matter. Basically, in terms of a board and its powers, we feel it would be a more efficient way to handle landlord and tenant disputes than the present system. We feel that if the board were set up in existing rent review offices it would be more successful to people outside of Toronto; also, we feel that by using the existing offices, startup costs could be kept to a minimum which, from the green paper, we all know is a fairly important consideration.

We feel that the appeal process should, at least in the first level, be kept within the board. We feel that basically the appeal board, within the landlord-tenant commission, should be set up probably with a three-man panel and that it should be set up along the lines of the Ontario Labour Relations Board and that the representatives should be made up probably of one landlord representative, one tenant representative and another representative, and that these persons should

be selected for their expertise in the particular areas.

We feel that this would counteract the suggestion in the green paper that this type of a board might be challenged for giving out rough and ready justice.

[3:30]

In terms of the powers that we'd like to see the board have, we feel the board should have very broad adjudicative powers. The green paper discussed not only adjudicative powers, but also mediation and arbitration powers and we feel the board should be adjudicative only and that the need for mediation and arbitration disappears provided a sufficiently effective and efficient adjudicative mechanism is available.

A system which allows mediation and arbitration would inevitably result, through the bargaining process, in a compromise of otherwise absolutely enforceable rights and obligations of the parties. We feel that where mediation and arbitration are allowed, if the essence of our proposal is to have very, very clear obligations and rights of landlords and tenants and for everyone to understand them and to know them, then to allow them to be bargained off through a mediation or arbitration process we feel would be contrary to the idea of having very enforceable and discernible rights and obligations. Basically we would like to see the board have only adjudicative powers.

With regard to the specific powers of the board in terms of remedies and in terms of orders, we'd like to see the board retain all powers presently listed in section 106(1) as well as the power to award damages, including setoff of damages against rent; the power to make orders to restrain breaches of the act or of obligations of the landlord and tenants under tenancy agreements; the power to make orders for repairs and improvements; and the power to hear and adjudicate counter claims. As I discussed before, I'd like to see all the matters in question be brought up at the same time in the same hearing.

We'd like to see that board also have the power to set a damage award in an application against a damage award made on a counter claim, so basically there's a very broad range of powers that the board would be able to use to make orders and whatever was necessary. We also wanted to deal today with some revisions that we'd like to see in the Landlord and Tenant Act.

I could stop now and answer any questions on the powers and structure of the board or I can go right on to that.



**Mr. Duksza:** It would be simpler if we had some questions now.

**Mr. Acting Chairman:** Sorry, were you on the list?

**Mr. Duksza:** I'm first on the list.

**Mr. Warner:** I had earlier—

**Mr. Acting Chairman:** We mustn't let Mr. Duksza get ahead of Mr. Warner here.

**Mr. Duksza:** My colleague can go ahead, of course.

**Mr. Warner:** I shall be brief. It seems to me that one of the things you're suggesting is that we have some informal way to handle what is in some sense a formal problem. We want to have a body which will have powers vested in it, the ability to make decisions, make judgements, impose penalties and so on, and yet have that function in an informal way. But it seems to me that there's a bit of a problem.

For example, the only parallel I can draw is what I know from the rent review procedure. To date, it's been my experience that in many instances you have the landlord bringing in a lawyer, an accountant, and so on and the tenants coming on their own. How do you avoid that? How do you counteract that in the form that you're suggesting to replace that? What do you do?

**Mr. Dobson:** There are two answers that I would have to that. I should have mentioned this, although I felt that it was kind of implicit. The first one is that where a group of tenants have disputes against the landlord, whether they be rent review or substantive matters, the tenants could bring all those things together at one hearing. Financially, if the landlord felt the need of counsel, and admittedly it would probably happen, in those instances the tenants could more easily afford counsel. So in a lot of instances by allowing the board to handle several disputes at the same time in one hearing there could be more possibility of tenants sort of chipping in and paying for a lawyer.

The other thing is if the board and the evidence rules and things like that were very informal, and assuming that for the most part we'd be dealing with landlord-tenant matters, substantive matters, I don't really know that the tenants would feel intimidated anyway. What you're going to have is the tenant coming in and saying, "The landlord hasn't had hot water in my building for three weeks, and what can be done about it?" The rent review officer as he was reviewing the application would say, "Possibly you could get a rebate in rent or something." There would be a number of possibilities. I don't see that

a person coming in with that kind of problem would necessarily feel a need for legal counsel. He is going to come and say his hot water wasn't on. It is not a complex legal argument.

Certainly there would be more difficulty in the rent review area where you get into facts and figures but I think for the most part in the substantive areas we would be dealing with basic everyday problems that tenants run into constantly, the water being off, the locks being changed, the driveway not being shovelled. Those are the kind of problems we would be dealing with to a large extent. Those are the kind of problems that don't get brought up because the process we have now is so intimidating. People would rather avoid the problem than seek a remedy because of the process now.

**Mr. Warner:** Without wanting to launch an attack on the legal profession—as Mr. Breithaupt can appreciate, I would not want to do that to our good friends in the legal profession—it would be better if there were some way of keeping the lawyers out of this business. I guess what you are suggesting is that as long as the ground rules are set and there is a sufficient amount of powers, it is going to be informal and wide-ranging. Then A, the tenant wouldn't feel intimidated in coming in front of this group nor would he be intimidated by the presence of a lawyer on the other side. Maybe the landlord wouldn't need to have a lawyer.

**Mr. Dobson:** That would happen in a large amount of cases. The other thing to remember is that one of the essences of our proposal is the application would be reviewed by an officer so that the person would be sure that all the available remedy claims that could be made, have been made on his behalf by the officer, who would look at the thing and say, "This is wrong and this is wrong. This is how he can fix it and this is—"

The understanding of the legal remedies available to the tenant would be available notwithstanding legal counsel. Undoubtedly, especially in the rent review area, there would be some problems but certainly the balance goes in favour of the informality of it because in our experience there are so many tenants that come to us and they complain of a million little problems. When they find out the process that is necessary to try to remedy those problems, they just say they are not going to bother with it.

There are a lot of things like that: places that remain unpainted after the landlord has promised to paint them. We deal with tenants; we don't do any work for landlords at



all. That is the kind of problem that we deal with day in and day out. It is something we feel should be remedied.

**Mr. Duksza:** When you were talking about making this structure of yours informal because it would solve so many problems, and on the other hand you said that it should be quite formal, maybe I lost you.

**Mr. Dobson:** All I am saying is that one of the green paper proposals was the board should have powers not only of the adjudication, settling disputes in terms of you're right and you're wrong, but they also suggested that the board should be able to sit down and say, "Can't we work this out." Okay?

We want to see this self-help kit given to the tenants when they come into the tenancy. This would set out in layman's terms, in understandable language, the rights and obligations of the parties. We don't think it is beyond the competence of any tenants to understand a logically and simply written document that explains rights and obligations. It is not that complicated. It is complicated the way it reads in the act but it can be put into much simpler language.

Once you have those rights and obligations and everybody understands them, everybody has been given a copy of them and everybody knows what he has to do and what the other party has to do, if we allow mediation and arbitration, then you are trading off those otherwise clearly enforceable rights.

**Mr. Duksza:** Exactly what I was driving at. The model that we presented this morning was the labour relations model. There would be conciliation, mediation and finally arbitration that would occur depending on the level of severity and some trade-off would in fact occur. The only concern I would have in your model is that you do need some kind of legal help once you get to that level.

**Mr. Dobson:** Why?

**Mr. Duksza:** On the adjudicative level, people who represent large interests would come with lawyers and the others, like the tenants, may not have them. You either provide them with lawyers or they are at the landlord's mercy.

**Mr. Dobson:** Okay, in particular instances then perhaps it would be to the tenant's advantage—I was saying he didn't need one—to have counsel.

**Mr. Duksza:** How does he get that? That is the major problem.

**Mr. Dobson:** What I'm saying is the vast majority of the complaints that we receive

from tenants, especially low-income tenants, who are our constituents, are the things such as a screen being off the window, the doors don't lock, the place is overrun with bugs, there's no fire escape, a number of things like that. To allow any kind of mediation or arbitration over obligations of that sort on the part of the landlord would defeat the essence of our proposal which is to make a very understandable and very—

**Mr. Duksza:** I do want to make it understandable but you move through levels. If conciliation and mediation fail, then you move to arbitration, which is a more formal process.

**Mr. Dobson:** I understand your point, I simply disagree with it. I don't think you can bargain over things like that. I think there has to be a fire escape and you can't talk about it.

Interjections.

**Mr. R. D. Kennedy:** Following along on that, do you see endless appeals? I gather from your remarks that there are a few minor ones. How would you deal with those?

**Mr. Dobson:** We dealt with that in our brief. Unfortunately you don't have it.

We had proposed that the initial hearing be before a single officer, and then we started to think about that and we said, "Well, gee whiz, is that going to wind up in there being two hearings for every one hearing; because as soon as anybody gets an adverse decision, he'll simply appeal it to a three-man panel." The alternative to that is having every hearing initially come before a three-man panel, have that decision binding, and allow no further appeal except judicial review based on points of law. That's a very difficult question, whether you want to initiate the hearing before a single officer and take the chance of having a great number of appeals or initiate it before a three-man panel and have more finality in the initial decision.

**Mr. R. D. Kennedy:** The three-person—

**Mr. Dobson:** Panel.

**Mr. R. D. Kennedy:**—tribunal. Well it is a tribunal, with three persons, isn't it?

**Mr. Dobson:** Okay.

**Mr. R. D. Kennedy:** Through numbers, that would have a bit more formality to it, presumably, than a single—

**Mr. Dobson:** It can't and it can. One of the tribunals I have appeared before on several occasions is the unemployment insurance commission. There are three members on that panel. It isn't an adversary procedure inasmuch as only the claimant is

there, so that tends to simplify it somewhat, but certainly the situation is very informal notwithstanding there are three members on the tribunal. You just go up and you say, "Well, gee whiz, here's my problem." Then they go, "Well, what about this?" You go, "Well, gee, what about that?" and it's that kind of response situation we're looking for.

**Mr. R. D. Kennedy:** Do you think there should be any penalty to an appellant who would lose?

**Mr. Dobson:** That depends. If we allow some kind of an appeal process whereby you went from a single hearing officer to a three-person tribunal as an appeal stage, and assuming that delay tactics would probably be taken by the landlord, because the tenant would have no reason to want to delay. If the order was for screens to be fixed on the apartment and the landlord said "Well, I can afford it next month, so I'll appeal just so I can afford it," I can't fathom why a tenant would want to make a delay appeal in that case, possibly, because during the appeal process perhaps counsel may be more necessary. Consequently the landlord should be held responsible for some kind of cost in whatever appeal is made necessary, if the appeal is not brought in good faith. Something like that; there are several approaches that could be taken.

**Mr. R. D. Kennedy:** I gather you've had some considerable success in mediating situations—

**Mr. Dobson:** Between landlords and tenants? Well, very often you can have limited success. The point is that you come up with two legitimate complaints, the front door doesn't lock and the window is broken, and you phone the landlord because the tenant has requested that you don't go through the formal procedure because it intimidates him, and the landlord says, "Well, gee whiz, I'm really sorry and I'll try to get that front door fixed, but there's nothing I can do about the window." The tenant feels a little bit better certainly, but at the same time there's what we feel should be a totally enforceable obligation on the part of the landlord that's left completely unenforced, and primarily because the tenant is intimidated by the process and won't seek the legal remedy that's available.

**Mr. R. D. Kennedy:** Finally, under the present Landlord and Tenant Act, there's this advisory board. Could you see building around that on the basis of what you've said here as providing the—

**Mr. Dobson:** The expertise?

**Mr. R. D. Kennedy:** Yes.

**Mr. Dobson:** Well, again, what we'd like to see—

**Mr. R. D. Kennedy:** Or the forum.  
[3:45]

**Mr. Dobson:** What we would like to see is persons being nominated, as it were, by landlord and tenant groups, and if they came from within those ranks, fine. Then on the three-man panels one person would have to be provided by the government, and certainly that would be a reservoir of expertise.

One thing we had thought about was that we would like to see this board able to handle both landlord and tenant matters and rent review matters at the same time, because we think the defence of substantive violations by the landlord should be available to a rent increase application.

In those matters, I don't know if the people who were on the landlord and tenant advisory bureau would have sufficient expertise to deal with the rent—

**Mr. R. D. Kennedy:** Well, maybe with modifications it could.

**Mr. Dobson:** Well, possibly. It depends on the type of system that you had. Some rent review systems can be very complicated in their determination of dollars and cents, and very often you'll need a specially expert person to deal with those kinds of questions. Of course, not every case would deal with that and so not every board would have to be comprised of someone who understood those things.

Certainly the government could find a lot of good people for our type of a board from that area. Landlords could nominate others, and tenants could nominate others.

**Mr. R. D. Kennedy:** Well, they're creatures of the municipalities as well.

**Mr. Dobson:** It would depend on a number of things.

**Mr. R. D. Kennedy:** The route we go? Yes.

**Mr. Dobson:** Yes. It's just a question of working it out. I think it could be done. I think the people around it have to be doing something anyway.

**Interjection:** Advisory boards.

**Mr. R. D. Kennedy:** Yes, the advisory boards are. They're municipal.

**Mr. Chairman:** Thank you, Mr. Dobson. Now have you a part to continue with or does your cohort?

**Mr. Dobson:** Yes.

**Mr. Chairman:** I'd ask you to begin to have pity on the committee—

**Mr. Dobson:** Okay. It's getting late in the day.



**Mr. Chairman:** —and the various delegations. We have probably about 30 delegations to go through between now and what looks to be after midnight.

**Mr. Dobson:** Okay. I've only two brief points at this point that we'd like to see—

**Mr. Chairman:** It's not your answers. I'm certain it's just the provocative questions that members keep asking. So we'll—

**Mr. Dobson:** Okay. There are just two brief points that I'd like to bring up about substantive revisions to the Landlord and Tenant Act—

**Mr. Chairman:** Yes. Thank you.

**Mr. Dobson:** —and they are two things that, again through our experience with our clients, come up fairly frequently, and are something that bothers me personally and us collectively.

The first thing is a non-bona fide application by the landlord for possession of the premises where he applies for possession of the premises either for personal use or for renovation. What frequently happens, and it has happened to our clients on some occasions, is that the landlord will make that application, will gain possession and then won't do anything. He'll simply relet the premises to another tenant and thereby he avoids the tenant's rightful security of tenure and completely avoids the act.

What we'd like to see would be a revision in the Landlord and Tenant Act whereby there would be a stipulated or simply reasonable time within which the landlord would have to complete whatever purpose he gained possession for, and if he did not he would be liable to fine. That's just to say that if the guy really wants the possession of the premises, that's great. We're not complaining about that, so long as he uses them for that purpose.

**Mr. Warner:** I have a quick question. Would you agree that in addition to what you mentioned the landlord should be obligated to locate for the tenant suitable accommodation and—

**Mr. Dobson:** No. One of the proposals in our brief was that we would assume that the tenant would find himself suitable alternative accommodation. The additional remedy would be that the difference in rent paid by the tenant to find suitable accommodation, assuming it would be more, would be—

**Mr. Warner:** Borne by the landlord?

**Mr. Dobson:** Yes. Right. That would be payable to the tenant and a fine will be payable to the government.

**Mr. Warner:** It has been a dodge; I think it's worth noting. We ran into that in Thunder Bay as well. In a presentation made to us there was concern raised by the social services department of the city of Thunder Bay with respect to this very point. So it exists in places other than Metro Toronto.

**Mr. Dobson:** One of the other things that we feel should be revised along the substantive lines is that the act should be written so as to make very clear the rights and obligations of assignees and sublessees. Very clearly, none of the tenants we talked to and none of the landlords we talked to know what the difference is. They don't seem to understand their rights and obligations, whether they'd be dealing with an assignee or a sublessee.

One of the things we'd like to see happen is the act be written so as to make every transfer of possession from a tenant to another tenant during the lease be deemed to be an assignment rather than a sublet, unless there was a specific term whereby the original tenant would regain possession. From that, what we'd like to see happen would be a very clear set of rights and obligations of the assignee in that case, or the sublessee. We would like to see them include, as already exists, an absolute right to sublet only to be withheld reasonably by the landlord if the assignee would be unsuitable for some valid reason.

Again, right in the Act we'd like to see it say that everything is an assignment unless there's a specific provision for resumption of possession. Where the tenant has transferred possession of the rented premises without the landlord's consent, the original tenant should remain liable to the tenancy agreement, except where the consent of the landlord was unreasonably withheld. There's got to be some means by which the tenant can pass on possession of the premises as he has a right to. If in his opinion the landlord is unreasonably withholding his consent, then what we're saying is to let the tenant go ahead and sublet the place and the rights and obligations of the lease shall be taken up by the assignee, and then the burden would be on the landlord to prove that his consent was not unreasonably withheld.

We would also like to see specifically and very clearly in the act that if a landlord, within 35 days of knowledge of a transfer of possession from the original tenant to another person, has failed to execute a tenancy agreement with the person now in possession, then the obligations of that person in the original tenancy cease until the execution



of such an agreement, except where the failure of the landlord to execute the new agreement is in accordance with his ability to do so or where he feels that the new tenant is unreasonable.

We would like to see everybody who has a lease aware of his rights and obligations. We would like to make sure that this information is brought to the attention of all the tenants who are in possession of their premises. We don't think the landlord, simply by delaying the execution of a tenancy agreement, should be able to avoid any of his obligations. We think some kind of agreement has to be executed with the new tenant in order to make sure this information is given to him.

Other than that, we have a few other—

**Mr. Acting Chairman:** We do have the benefit of the brief. We do not have it sitting in front of us at the moment, but we expect we will have by the end of the hour. We'll be able to go over that in some more detail prior to writing the report, and I think you would help the committee if you allowed them to peruse it that way.

**Mr. Dobson:** Okay. My associate Don Brady has a few more things to say to you. Are you suggesting that he should not—

**Mr. Acting Chairman:** No. Come forward, Mr. Brady. Perhaps we could hear from you; I just remind you again that we do have the brief and it would be very helpful if you could keep your comments as restricted as possible.

**Mr. Brady:** I'll just highlight these very briefly.

**Mr. Acting Chairman:** That would be very helpful.

**Mr. Warner:** Excuse me; I have a point of order. We haven't got anyone from the Attorney General's ministry here right now. The last point that was raised, about the assignment in the sub-lease, is particularly important for someone from the Attorney General's ministry to take a look at and to make some recommendations. Is it possible that this section of Hansard could be noted and given, through our counsel, to the Attorney General's ministry?

**Mr. Acting Chairman:** No sooner said than done.

**Mr. Warner:** Would the chair undertake to accomplish that little task?

**Mr. Acting Chairman:** It will be.

**Mr. Dobson:** That particular part of our brief can be found on page 40, wherein we discuss the proposed section. Then in our

appendices, on page 64, VII, we've actually drafted a proposed section. That's where it can be found if someone wants to have a look at it.

**Mr. Acting Chairman:** Thank you. I think you have just about hit the record for the size of brief. Sixty-four pages! Award the prize here.

**Mr. Brady:** My name is Don Brady, Mr. Chairman, and I would like to continue to highlight very briefly some of the other substantive proposals we've made in the brief. We have proposed an enlarged covenant of quiet enjoyment. The courts have held that the existing covenant of quiet enjoyment that's mentioned in the Landlord and Tenant Act and in common law refers basically to physical intrusion or intentional interference with title and the like. We are submitting this is an unrealistic approach today, and that the peace and comfort and privacy of the tenants should have some recognition in the form of an enlarged covenant of quiet enjoyment.

We have proposed, following the recommendation of the law reform commission, such a possible clause for the act. We have actually drafted clauses but they are only in draft form for most of these proposals.

The standard form tenancy agreement has been mentioned. We feel this is very important. Right now tenancy agreements are being used that not only fail to state the law correctly, but misstate it. Some give rights to the landlord which he doesn't have in law—for instance, eviction without cause and the like. So we are proposing that a standard form tenancy agreement state the rights of the tenant and the landlord correctly.

In the case where there is an oral tenancy agreement, not a written tenancy agreement, we are suggesting that the landlord be required to give the tenant a notice of landlord-tenant obligations. This would form part of the self-help kit which we are suggesting be given to the tenant. This could also be used to initiate action before the board or whatever authority is vested with supervision of the act.

Right now there is a nominal notice posting requirement of landlords which isn't generally widely followed. In terms of giving tenants a better possession we are suggesting rights against other tenants. Where a tenant is creating disruptive acts, interfering with the peace, comfort, privacy, quiet enjoyment of another tenant or the landlord, we are suggesting that other tenant have the right to seek damages before the board or an order

ordering that the breach cease. Only the landlord, however, should be able to appear before the board and suggest termination of the lease.

Oral representations are an area that have come in for attention in the consumer protection area a lot. We feel they have some place in the act. A frequently-arising problem is where a landlord promises to paint the apartment and then doesn't follow through with it. Right now the tenant can't necessarily do anything, so we suggest the landlord should be held to his oral promises on which the tenant relies to his detriment, and that such provisions be deemed to be included in the lease.

We are opposing the automatic renewal of term tenancies, and the summary disposition of abandoned chattels that was proposed in the green paper. We think the tenant still owns his property after he has left the premises and that the landlord should be required to take some care of it. Or if the board is prepared to undertake supervision of the disposition of it, this would be a possibility.

Finally, we would like to re-emphasize our concern in ensuring that rights not only are available on paper to tenants and to landlords but really are available. That means that tenants and landlords have to be aware of their rights. Right now a very large percentage of the tenants—I would say a majority—who come into our offices with problems, are not aware of their rights. They are not aware in many cases that what the landlord is doing is illegal. Partly this could be an advertising or a communications problem in general, but a specific partial solution would be to give each tenant a self-help kit.

The Ontario Law Reform Commission report includes some suggestions that we would agree with entirely. Their package includes a cover sheet called "Instructions and Information for Landlord and Tenant"; the standard form tenancy agreement; an initial condition report that could be used—the tenant could tick off what is in condition and what isn't—it could be of some evidentiary value later; instructions allowing either party to initiate an application before the board, and we've mentioned some possible forms for that.

[4:00]

Our whole idea here is that it should be so simple to bring an application before the board, the commission, or whatever it's called, that the tenant can do without legal assistance. The types of questions on the form in the self-help kit that he needs to initiate an application should not be sophis-

ticated ones that require any legal analysis but only be factual ones to determine the factual bases for remedies or defences. Then they can be structured with the help of board personnel prior to the application. The application should basically be a fact-finding one that then determines the legal issues, so that the outcome doesn't become dependent on advocacy by lawyers. Those are some of the points that we have made in the brief.

**Mr. Acting Chairman:** Thank you, Mr. Brady. I just have one question from Mrs. Campbell and then perhaps we could move on.

**Mrs. Campbell:** I'm sorry that I missed the beginning of your brief but I have one problem with the whole question of the rights of other tenants in a building. I think tenants have rights vis-à-vis other tenants, as they deserve, but the last time we had rent control in this province one of the very real inequities and iniquities was that in some cases the landlord was able to prevail upon some other tenant or tenants if he wanted to get somebody out. Do you understand? He was able to make it sweet for somebody to complain and help him to get somebody out of a building. Have you any solutions for that kind of a situation? Or did you refer to it? If you did, forgive me.

**Mr. Brady:** No, I didn't refer to it. I agree with you it is a problem. I think one way of dealing with it that comes to mind right away would be that there could be a question on the application form or on the notice that goes to the tenant where another tenant is seeking a remedy for eviction. Again, we are not suggesting tenants have the right to secure possession against another tenant—in other words, to evict a tenant—only the right of damages.

**Mrs. Campbell:** I see. What about their right to give evidence to support the landlord in an eviction because the tenant is generally a nuisance to the other tenants?

**Mr. Brady:** The only thing I could think of is that where the tenant suspects or raises the issue of a possible conspiracy or collusion between the landlord and some of the witnesses—

**Mrs. Campbell:** That's pretty hard to get.

**Mr. Brady:** —the board should have some independent investigative powers, and we have suggested that in our brief.

**Mrs. Campbell:** I see.

**Mr. Acting Chairman:** Thank you, gentlemen. We appreciate your comments. We do have your brief and we will make use of your brief.



**Mr. Brady:** Thank you very much for hearing us.

**Mr. Duksza:** Are you going to have the brief handed out to everybody?

**Mr. Acting Chairman:** It will be handed out to everyone. You will have an opportunity to read it later this evening.

**Mrs. Campbell:** When in the evening?

**Mr. Acting Chairman:** During the dinner hour. Can we turn now to the London Property Management Association. Do you have a written brief?

**Mr. Melnitzer:** Oh yes, the brief was submitted three weeks ago.

**Mr. Acting Chairman:** We have the brief. It's the last half of the brief that we had from London Property Management Association a couple of weeks ago and from last week.

**Mr. Duksza:** The one that Gordon Walker worked on.

**Mr. Acting Chairman:** Did I walk on that?

**Mr. Duksza:** Worked on.

**Mr. Acting Chairman:** Oh, worked on. Just good things come from London, that's all. We have the benefit of that brief.

**Mrs. Campbell:** Let us not get into that.

**Mr. Acting Chairman:** I was thinking of the Liberal members, Margaret.

**Mrs. Campbell:** I know you were and so was I. Et tu, Brute? Whatever happened to John White?

**Mr. Makarchuk:** Whatever happened to Martin Shore?

**Mr. Samis:** Starvin' Marvin?

**Mr. Acting Chairman:** That is not a question I am prepared to answer. He has gone on to greater things. He has succeeded from being a member.

**Mr. Breithaupt:** He is now a rent review officer.

**Mr. Acting Chairman:** Mr. Melnitzer, perhaps you could take us very briefly through your brief, because although we don't have it in front of us at this minute we have it available to us and the members will be making use of that.

**Mr. Melnitzer:** This is the third time I have been before some members of this committee and I am glad to say that on this third occasion—

**Mr. Acting Chairman:** That is what Mrs. Campbell was just saying.

**Mr. Melnitzer:**—having had the benefit of hearing the tenant-oriented brief, I really don't think the landlords and the tenants are that far apart when it comes to the Landlord

and Tenant Act, at least as to the way in which disputes are going to be resolved. I think the fatal flaw in the assumption of the submissions made by the tenants is that all landlords can afford lawyers.

Let me tell you this—and it is not a reflection, I hope, on my particular office—90 per cent of the landlords who come to our office cannot afford to hire a lawyer for the particular dispute. They can't afford to go through the legal process and take six weeks to get a tenant out. It is going to cost them far more; unless they really have to get him out, unless it is a disaster it just isn't worth it. So for anything less they are not going to hire a lawyer anyway.

Let me tell you, ladies and gentlemen, we represent 90 per cent of the landlords in London and most of them would rather go to a dispute resolution forum where they are not going to have a lawyer. We go along with the idea of a tribunal. We want you to take it out of the court system. I, as a lawyer, want you to take it out of the court system so I can get some other cases heard by the courts.

The landlord and tenant law requires speed. It deals with matters that in the general scheme of society relates to a particular individual, not on large monetary terms and not on complicated issues. The courts just aren't set up to deal with it, and in my opinion, even speaking to some of the judges they just welcome the relief.

I am going to be brief. I have gone into it in some detail in my brief. If you, ladies and gentlemen, give this tribunal anything less than a broad range of adjudicative powers and the power to enforce an order, whether it is on behalf of the landlord or the tenant, you are courting disaster. Any body that has a purely advisory nature isn't going to have any effect at all. It will not speed things up unless it has the power to speed them up. It will not be able to enforce its orders unless it has some sanctions available to it.

In making that remark I speak for both the landlords and the tenants. What I do say is this; even though you don't need lawyers that does not mean that you have a system that is completely devoid of a notion of fair play. That is inherent, both to our legislative and legal system. The Statutory Powers Procedure Act is the fountain of natural justice in this province. It is a product of the McRuer commission. Obviously, if you are going to trammel a commission or board with all those procedural requirements it is going to be a little much.

The English courts have, interestingly enough, devised a concept that says boards



have to act fairly. If you use that concept, the right to ask questions of witnesses, the necessity for evidence, we don't need the hearsay rules but we need evidence of some kind and we have an officer sitting there who is going to decide whether it is worthy of credibility. Hopefully we can rely on the neutrality of the officer. But you need evidence, you need a right to be heard.

In my opinion, the rent review officers do not play fair, and I say that having got some very favourable decisions. There must be a right. The right to cross-examine does not mean the need to hire a lawyer and to conduct a G. Arthur Martin type of cross-examination. It means that a person who comes there and is accused of breaching some covenant has the right to ask some questions and to state his case, and to state it fairly. If you preserve those basic rights you don't need lawyers to preserve them. So I say that we need an informal tribunal, but we need something that preserves what we lawyers call natural justice, what most people call fair play.

The extent to which you are going to allow formality to creep into it is, in our submission, very much tied to the concept of an appeal. If you are going to have very little formality you have a greater need for appeal. If you have more procedural safeguards at the first stage then there is less need for an appeal because there is more protection.

If you are going to say, and speaking from the landlords' point of view, that, as we propose, within 72 hours of the failure to pay rent he should have the right to bring an application to evict the tenant for the failure to pay, if you are going to give the tenant only two days notice then presumably the tenant, because he may not have received notice for some reason, should have a right of appeal—after all, he lives there—you are going to have to work out a right of appeal that doesn't clog up the process. He may have to have that appeal heard within five days. It has to be an informal appeal as well, or else it is going to kill the original idea.

What I say is this, in my experience if you are going to preserve a sense of justice in any tribunal, and you are going to get rid of procedural safeguards in the first instance, then whether you require an appeal depends on how much formality, how many safeguards you are going to preserve. Even though we are taking this out of court there are basic rights recognized by our law—the right to live somewhere, the right to income. They are very fundamental rights and they

should be protected differently from the way they are protected now.

My own suggestion, the one we put in the brief, is an intermediate tribunal. We think there should be a three-man tribunal; a hearing by one officer in the first instance, and a quick hearing with not much more formality within seven days. That is something that was thought about very carefully. It might delay things. I hate to answer to the last brief but I can think of many tenants who would just love to delay their eviction by appealing. Appeal works as much for and against the landlord as it does for and against the tenant. I don't think it cuts either way.

My concern is, and I think it should be the concern of the legislators more than the lawyers, that people feel they have been treated fairly. They are not going to feel treated fairly unless you balance the right of appeal against the amount of procedural safeguard in the first instance. I think appeals to the courts—I bet every judge in the Supreme Court and the Court of Appeal would agree with me—should be extremely limited.

In my opinion, if they are going to allow any appeal to the courts you should make it quite clear that the final order of the residential board is not stayed simply because there is an appeal; if a tenant who is evicted after a right of internal appeal can hold up his eviction by appealing to the divisional court. The present caseload in the divisional court the last time I was there was 111 cases. It takes approximately seven months to a year to have a case heard, so you are never going to get around an appeal because people are going to appeal to the courts even if you don't give them the right to appeal to the courts. They are going to use some prerogative writ or some other fancy trick. So where you have to protect the system is by saying: "Even if you do appeal that doesn't necessarily mean the order isn't enforced." There has to be some safeguard mechanism.

I don't think there is a great deal of dispute among landlords and tenants about the fact that we have to get this out of the courts, and I think getting it out of the courts is a step ahead no matter where you go. Where the problem really lies is in the substantive changes you are going to make in rent review. I am going to run through them, hopefully in less than five minutes. I am not going to give my reasoning except in response to questions, because it is late in the day and you have had my brief for three weeks and

it seemed when I was in London last time the members had read the brief, so I am quite hopeful that way.

First of all, we suggest the distinction between a subtenant and an assignee should be disposed of. It seems to me you can draw a balance in this way: If a tenant wants out of his lease, the landlord should have to consent except where an unreasonable tenant is being forced upon him.

If you want to relieve the tenant of his obligations for the duration of that lease then you must give the landlord the express right to withhold consent on the basis of the comparative credit risk. You can't both take away from the landlord the security of the original tenant and take away from him the right to refuse to accept a tenant who is a poorer credit risk than the original tenant. That doesn't seem to me to be unfair.

The most important submission is that for the landlord or the tenant there should be a right to have any dispute or any breach heard within three to five days. I mean if it is important enough to people they are going to show up. If it is not important enough for them to show up then maybe that is an important factor in making a judgement.

[4:15]

There's one particular aspect of the green paper that quite disturbs me, and disturbs all the members of the association. That is that it's suggested in the green paper, at some point, that the landlord should be required to apply to the tribunal for eviction when the tenant has failed to fulfil a reasonable obligation. In other words, the tenant first is told: "Don't fulfil your obligation, and then if you don't fulfil it, you'll be evicted." All you are doing there is drawing out the thing once again.

If there is an obligation and if the tenant isn't fulfilling it, and if the officer who was hearing decides it's unreasonable, then that's the end of it. The landlord doesn't have the right to enforce it. But surely, if it's a flagrant breach of an obligation that's obviously reasonable, at the very least the tenant should be liable to eviction the first time he appears before the board. I'm not saying that you should throw out every tenant who has one wild party. I'm saying that if he destroys the apartment in the process then the first time you have him in that court or tribunal, he should be liable to be thrown out. You must give some discretion to the rent review officer but in my submission—the submission of the association—you must get rid of this two-step idea.

If there is a reasonable obligation, the tenant at least has to bear the risk of eviction for breaching any condition if it's going to have any force. If it's unreasonable it shouldn't have been in there in the first place, whether the tenant signed it or not, and if the landlord can't enforce it. I've put in some suggestions about cost and that sort of thing but I don't think I'll belabour that, orally.

The last major change is that it's becoming impossible to run a business when you can't insist on a lease, when you don't know that you're going to have the security of the income for another year. If you're going to give the tenant security of tenure, then surely, the landlord should be able to extract from him at least an agreement that he will remain on the premises for one year. You have to give a business some security.

We submit very strongly that you must get rid of this situation where people are on a month-to-month lease. For reasons that I've gone into on our topic of rent review, there must be some certainty when you're running a business; landlords run businesses and they must have that security. If the tenant is going to have the right to stay then there should be some responsibility upon him to remain for an agreed period of time. The landlord should have the right to have a lease signed. He's as much entitled to security as the tenant.

That's all I'm going to say, ladies and gentlemen, except in response to questions, if any. I think the brief can be summarized this way: A lease is basically a contract. It should be treated the way any other contract should be, subject to giving the tribunal power to relieve grossly unfair situations or situations where there has been such a gross inequality of bargaining power that nobody could, with a straight conscience, countenance that type of document. That's all I have to say.

**Mrs. Campbell:** I'd like to address myself to your statement about a lease. Perhaps my experience is different from anybody else's, but I find in my riding that it's the landlord who doesn't want to give the lease, it's not the tenant who doesn't want it. If you're going to insist on the tenant getting a lease, then by the same token, surely, you have to have a right for the tenant to demand the lease.

**Mr. Melnitzer:** The tenant, in effect, has the right to demand a lease. He effectively has a lease because, as you know, under the present rent review, the rent can be raised only once a year and, except for gross misbehaviour, the tenant cannot, under the present landlord and tenant legislation, be re-



moved from the premises. The tenant effectively has a lease, the way the legislation is at present drawn up.

**Mrs. Campbell:** All right, it may be that he effectively has the lease, but what we're talking about is the situation where it might be that the majority of this committee would see a phasing out, for example. This then puts your tenant at great risk.

**Mr. Melnitzer:** Phasing out rent review? I'm all in favour of that.

**Mrs. Campbell:** I don't know what this committee is going to decide in its wisdom in the final analysis, but supposing that's the situation—then that tenant has no security of tenure.

**Mr. Melnitzer:** I agree with that, Mrs. Campbell.

**Mrs. Campbell:** All right.

**Mr. Melnitzer:** I think I addressed myself to that last time.

**Mrs. Campbell:** Yes, you did.

**Mr. Melnitzer:** I don't think it's politically any longer possible to argue against security of tenure and keep a straight face. Therefore, one is forced to the conclusion that if you're going to have security of tenure you must have some sanction against using a rent increase as a ploy.

**Mrs. Campbell:** Right.

**Mr. Melnitzer:** Yes, you're going to have to find some way to protect the tenant that way. What I'm saying is that if a landlord demands a lease, the tenant is at least protected for another month, assuming the signing of that lease and the terms of it have some relation to reality and conscionability.

**Mrs. Campbell:** Secondly, could you give me some idea, do you have any suggestions as to the type of personnel who should be engaged in this exercise for the tribunal?

**Mr. Melnitzer:** I sat through the union's brief. I don't know if somebody is going to accuse me of a conflict of interest, but I do labour relations work on the union side and, for those of you who have any familiarity with the union side—

**Mrs. Campbell:** Confession is good for the soul.

**Mr. Melnitzer:** —that's one union where you don't play both sides of the fence. But I have a strong fondness for the Ontario Labour Relations Board. I think it's probably a little too formal. Of course it sits only in Toronto, which is my beef with it. I think it works very well; you can get any kinds of evidence there and the members either accept it or they don't.

If a company is accused of an unlawful lockout and they come in with their books and their president says, "Here's our audited financial statements. We've lost \$100,000 last year, that's why we're closing up," they'll accept that. You don't have to call the accountant and serve your notice under section 30 of the Evidence Act. Really, that's the sort of thing we want.

But the thing I like about the Ontario Labour Relations Board, and also about the three-man arbitrations we have under collective agreements, is that somehow it avoids the middleman who is supposed to be neutral. You never hear the parties talking much about his being unfair one way or the other because with a representative of either side sitting there the party sort of feels that, at least, somebody tugged his ear, and he has to maintain the appearance of neutrality. That's why I like the three-man board because you don't get the party saying: "Hey, he didn't really get our point of view."

The truth of the matter is that there is always one person sitting on the Ontario Labour Relations Board with a union background, one with an industry background and the chairman in the middle. You always know that each one, except in growth cases where the members have to maintain their own credibility, each one is tugging one ear of the chairman. That gives the parties a feeling of participation that they don't have with a single arbitrator. Of course, the expense is greater but in arbitration, of course, the parties bear it.

**Mr. Breithaupt:** Instead of blaming the individual arbitrator they may just wind up blaming the chairman.

**Mrs. Campbell:** The chairman has one thing on the middleman on that occasion, I know.

**Mr. Melnitzer:** What I'm saying is that you don't tend to get that. In my experience, if it's just a matter of keeping your constituents happy, they tend to be happier with a three-man arbitration. That's only my experience.

**Mr. Breithaupt:** That's an important point.

**Mr. Warner:** Yes, I'm sorry I was late. What is the gentleman's name?

**Mr. Melnitzer:** Melnitzer; you probably won't remember it anyway.

**Mr. Warner:** Mr. Melnitzer, I appreciate that perhaps the situation in London is different from Toronto. I gather that's where your work primarily is.

**Mr. Melnitzer:** Yes.



**Mr. Warner:** I was struck, as Mrs. Campbell was, by the comments about the lease. I appreciate the explanation you gave her, but my experience from the time of the inception of rent review to the point where it was necessary to amend it because of there being increases more than once in 12 months is that there was a decrease in my area from three-year leases to two years to one to six months to none. It was the landlord who wanted to do that; the tenants wanted leases, they couldn't get them, they weren't made available. That was the process. Maybe that didn't happen in London, but it did happen in Scarborough.

**Mr. Melnitzer:** It would probably attribute some naivety to everybody present to suggest that the reason you find the landlords now not wanting to get stuck with a lease at this particular point in time is the uncertainty of the situation with respect to rent review. One side can say they're just waiting to jack up the rents; on the other hand, they just don't want to be stuck in a situation when all the external circumstances have changed.

What happened was that the government said this was going to end in 18 months. People said, "Okay, we're stuck with the situation. Let's take a lease for 12 months or 18 months and we'll live with it as it is now. Then we'll see what happens." Then it was said that it would end in six months, so people were taking six-months leases. In London, the question is whether you can rent the place, not how much you can rent it for.

**Mr. Warner:** Maybe I missed this; but if, for example, rent review is continued, what do you suggest with respect to leases? Would you not have any?

**Mr. Melnitzer:** It's hard to answer that question unless one is given a hypothesis that gives one some idea of what the particulars of that rent review program are going to be and its future. I saw the NDP press release this morning which suggested that right now we ought to extend it six months. I would say everybody is going to extend his leases for six months.

If rent review continues as it presently is, I would think that landlords would still want the right to insist on a lease because turn-over very often costs money. Let me take London where you have a high vacancy situation. What you want to do is make sure somebody stays there. From the London landlord's point of view, rent review or not, he would like the right to insist on a lease

as a condition of remaining so that at least they're going to have the apartment rented.

**Mrs. Campbell:** That isn't true in Toronto, that's the problem.

**Mr. Warner:** Yes. Mind you we can't base the program for the province on what happens in Metro.

**Mrs. Campbell:** No. There are a lot of different situations.

**Mr. Warner:** It's a different situation, it seems to be reversed.

**Mr. Melnitzer:** I originally introduced this brief by saying that it's easy to think of the London Property Management Association as an interest group, or all the landlords as an interest group. I hope that in the two weeks that have passed since my remarks it is clear that there are disparate interests even among landlords.

**Mrs. Campbell:** Exactly.

**Mr. Melnitzer:** That should have become obvious.

I think you asked me, Mrs. Campbell, what I had to say about the situation in Toronto. I said that at that point, when it's in my interest—I then become an interest group—then I want regionalization; that's the truth of the matter, really.

**Mrs. Campbell:** I want to talk to you afterwards about this transient business, because it seems that somewhere somebody can make a lot of money by clearing out good substantial tenants, furnishing flats and putting in transients. I want to know about that. That's what we're facing in Toronto.

**Mr. Melnitzer:** I don't know anything about it.

**Mrs. Campbell:** How do they make money?

**Mr. Warner:** It doesn't happen in London?

**Mr. Melnitzer:** I haven't heard of that situation. I'm sorry. I didn't introduce the people who are here with me. I was sitting with them for a while. Gail Lindsay is our secretary this year and Jim Currie is our vice-president. Am I fair in saying that I can't think of any single landlord we would know who would rather have transients? Do you know of any one situation such as that in London?

**Mr. Currie:** No. We just don't have that situation.

**Mr. Acting Chairman:** I think that's probably related to St. George.

**Mrs. Campbell:** Everything is.

**Mr. Warner:** The member caused it.

**Mr. Melnitzer:** Next time, Mrs. Campbell, I'll have a special section for your riding.

**Mr. Makarchuk:** Do you envisage a sort of two-tier system in resolving rent review?

**Mr. Melnitzer:** I have difficulty with it, but that's what I ultimately see.  
[4:30]

**Mr. Makarchuk:** In other words, following what we've decided or what we're leaning to which is a labour relations type board—

**Mr. Melnitzer:** That's a one-tier thing.

**Mr. Makarchuk:**—where you have a conciliation officer, would you put the initial attempt to resolve the dispute to one person, the conciliation officer or whatever you would call him, and then put it to a tribunal of three people, or would you prefer just those two?

**Mr. Melnitzer:** I think there's a fundamental difference. I don't think the conciliation officer, apart from his adjudicative function, has any place in landlord and tenant relations.

Let me tell you why: In labour relations you're often dealing with a company—in other words a faceless corporate entity—and another interest group. The conciliation officer is there to bring two groups together, two groups that sometimes have large numbers of people. You can have 1,500 people in a bargaining unit, sometimes many more.

For example, if you go to small court—and very often that's the advantage of having lawyers—you appear before the officer who is going to make a decision. He is going to come down one way or the other. And, despite what the previous brief said, except in the gross cases, these disputes are usually grey, they are not black or white, with one party right and one party wrong. What usually happens is everybody gets together just before they go in and they say, "Maybe we can sort it out."

The adjudicative officer should have the power to inquire into a settlement on the day the parties arrive on his doorstep and mediate in that way. They try to do that in a divorce act. When you go for a divorce, the judge halfheartedly asks you if there is any chance for a reconciliation, three years after the event.

If you get conscientious officers there who say, "Is there anything we can do to resolve this?"—I think they should have that power. But I think if you get into conciliation you're wasting time.

**Mr. Makarchuk:** Yes. I just was sort of drawing a parallel more than anything else.

**Mr. Melnitzer:** Anything that takes you away from the principle that time is of the essence in landlord and tenant relations,

either for the landlords or the tenants, is going to detract severely from this legislation.

**Mr. Makarchuk:** Do you feel that the tribunal or the adjudicating officer should have the power to impose fines or would his power be limited to a redirection of rents? In other words, is there any sort of punishment involved in this situation? Let's assume that the landlord isn't keeping the building up to scratch or not painting the apartments and he refuses to move, in which case the adjudicator can direct the tenant to have the apartment painted and that portion of the rent money withheld to pay the painter.

**Mr. Melnitzer:** I'm inclined to say, if I'm going to be consistent, you would have to arm the tribunal. I don't think of the concept as a fine, I consider it as damages. A fine I perceive as something paid to the state.

I want to make it very clear that the members of the committee should be aware that "damages" is a two-way street. If that officer is going to have power to award damages, he has to be able to award damages, for example if somebody walks out on a lease. There's no reason the landlord shouldn't be able to go and collect whatever rent he has lost, subject to his duty to try to get the place rented, plus his expenses, and his time and effort. I say yes, give them the power, but make it evenhanded.

**Mr. Makarchuk:** The last question then is would you consider this matter of collection should be taken out of the small claims court and settled within the tribunal?

**Mr. Melnitzer:** Yes. I don't actually know how I overlooked saying this, but it's fundamental to the functioning of a tribunal, that you don't—I've gone into this at great length in the brief—split up the jurisdiction. There's a little-known two-part statute in Ontario called the Rights of Labour Act. What it does, basically, is where you have a collective agreement situation—in other words an industrial relations situation governed by a collective agreement—the parties are just about barred from the civil court for any purpose arising out of the employee-employer relationship; and to the extent to which the present labour system works is largely attributable to that. If you don't, you are going to get lawyers in there saying "Well, the court can't enforce it because it is under the jurisdiction of the tribunal."

No, my opinion is they have got to have the broadest power. I would put a clause in it, similar to the Rights of Labour Act, which



says if there is any dispute arising out of the landlord and tenant relationship it must be resolved by this tribunal which has to be given a broad range of remedies.

**Mr. Acting Chairman:** Thank you, Mr. Melnitzer. I think we—

**Mr. Warner:** Could our legal counsel give us the Rights of Labour Act or the section that applies, to follow up on that?

**Mr. Melnitzer:** It is so short you could have the full act. I think there are only two or three sections.

**Mr. Acting Chairman:** Is it a statute of Ontario?

**Mr. Melnitzer:** Yes.

**Mr. Acting Chairman:** You have a copy in your office, but I—

**Mr. Warner:** I just wanted it noted in terms of the committee work; perhaps counsel could check that out for us.

**Mr. Acting Chairman:** Thank you, Mr. Melnitzer, and your delegation. We appreciate hearing from you.

**Mr. Melnitzer:** Thank you, Mr. Chairman.

**Mr. Acting Chairman:** The 3 o'clock delegation is the Students' Legal Aid Society.

I rather suspect that was the confusion with the Toronto Community Legal Assistance Services group that was here before. If there is no one here from that delegation, we may move now to the 3:30 delegation, Duplex Tenants' Association, Jane McNamee.

Oh there you are. Are you Mrs. McNamee?

**Interjection:** No, I am afraid not.

**Mr. Acting Chairman:** I think that is a blessing.

**Mr. Makarchuk:** What way do you mean?

**Mr. Acting Chairman:** If I may extricate myself from that statement, I may say we have now proceeded through the 3:30 delegation with some dispatch and move quickly to Mr. David Bryce. We have made up a lot of time. We are now only 35 minutes behind.

**Mr. Bryce,** would you please identify yourself and any organization for whom you are proposing to speak?

**Mr. Bryce:** I appear as a citizen, basically. I have been associated for the past number of years with Toronto Community Legal Assistance Services, formerly Students' Legal Aid Society. I have just graduated from law school.

I have been deeply involved with landlord and tenant matters on the tenants' side since the 1975 amendment. For the summer of 1976 I was a rent review officer. Basically I am here as someone who has had some experience with landlord and tenant matters, and

staying away entirely from rent review. I am simply here on the Landlord and Tenant Act.

I did submit something at noon, I don't suppose you have had it or had a chance to look at it.

**Mr. Acting Chairman:** Excuse us just a moment here. We have a three-page document here. It will be distributed.

If you would like to proceed, perhaps you might highlight what you have here.

**Mr. Bryce:** Basically there are just two points. I am saying, number one, don't mess with the Landlord and Tenant Act, it is pretty good as it is.

Secondly, if you are going to do things to it, be sure to know what you are doing and why you are doing it.

There is a great lack of knowledge about what is going on in the courts. There is this idea, that has crept in for some reason, that the courts are burdened by delays and backlogs, and nobody can get justice there and it is time to have another marvelous tribunal. I say stay away from the tribunals. I have seen what rent review is from the inside and the outside and I can't imagine something like that being an improvement.

It would be simply going to rough justice—very, very rough justice. It can be difficult enough in the courts—with judges sometimes not being particularly interested in what they are doing—but I have a lot of confidence in the ability of most judges to resolve matters in a fair way.

Certainly in my experience, judges very often take an informal approach to the matters in front of them. The typical approach of most of the judges in Toronto when the matter first comes before them is to say to both parties "What is this all about? Maybe we can settle it". In some cases, they say "come on back into my chambers," or "come on outside and talk about what can be done". I think that judges have the experience and the ability to handle the kinds of disputes that would be before any tribunal, except the kind of thing that could be handled by an adviser or a mediator, an information officer who would be willing to get involved and make recommendations to both sides.

As for the act itself, we have had the amendments to part IV since 1975. My experience has been that they work very well and that they are based on very sound principles. If there is tampering, we should know what is happening.

The cases that are dealt with by judges are not reported in law reports. I think the policy development section of the Attorney General's ministry does have some knowledge



of what is going on. It is very limited; there is no organized system, to my knowledge, of finding out what judges are deciding about the legislation that was introduced two years ago, but not very much is really known except on a case-by-case approach. Mrs. Campbell, for example, has received, from me, from the university, some of the cases that we have been involved in that we think are significant.

We find a great deal of difficulty in even finding out from other organizations that are involved in the same thing what is happening with their cases, let alone what is happening in the mass of cases that nobody is involved in who can appreciate the significance of the issues. I am quite certain that the Attorney General is no better off than anybody else.

As for the act, my understanding of the act is that for the first time Ontario recognizes that a tenant has an interest in the home and that it should not lightly be disturbed. My approach in an eviction matter has always been to try to put to the judge the idea that he should not allow the tenant to be evicted unless there is good reason for it, and that he should consider other remedies first, and there may be many of them.

If I can go into an example of something which I think is one of the most interesting cases I was involved in, a lady who was a tenant in Ontario Housing was five or six months behind in rent and they were trying to evict her. The social circumstances of that case just cried out for no eviction. The lady had been struggling for years with a no-good husband who wasn't working and who wasn't contributing in any way. She was trying to support herself, her husband and five children on very meagre wages that she could get with some difficulty. Naturally the children came first. She made promises and they were broken. She wrote cheques that bounced and all kinds of things.

Finally, before they started eviction proceedings, she kicked her husband out, quit her job and went on welfare. That was the most sensible thing she had done for many years, because welfare would pay the current rent and she was willing to take money for food off the table and reduce the arrears. Ontario Housing couldn't see the sense of this arrangement. They thought that \$20 a month, which was a very large amount for her, was not enough.

The family had been in the community for nine years. The five boys all involved in sports and community activities and they are a good family. There was just no sense, from any point of view, from a public point of view or the tenant or the corporation, in removing that family. The judge, with the

power that the Legislature granted him two and a half years ago, was able to say he agreed. That is right in section 107. It is not very much appreciated by judges unless it is brought forcefully to their attention.

[4:45]

In that particular case, Ontario Housing started an appeal which it eventually abandoned. The lady has been paying her \$20 a month ever since. The amount of arrears has been substantially reduced. Her husband has returned, things are improving, the family is happy. Ontario Housing has every reason to be happy and I'm happy, because as a taxpayer that was not a writeoff. Ontario Housing Corporation is getting its money, which it would have no hope of getting if it had successfully evicted her.

The same considerations apply in all the eviction proceedings, in my view; the conduct should be very gross to justify an eviction, and even if the conduct has been gross, the judge should, and will if properly approached, consider whether there is anything different that will satisfy the interests of both landlord and tenant.

I think in very many cases if there is something taken before a judge, the judge can say, "Well look, you've got to clean up your act." With a judge saying that to a tenant, I firmly believe that most tenants are capable of doing it.

In the circumstances of rent arrears, which is certainly the most common situation, there may be circumstances where no interest is served by eviction. The landlord is stuck with the problem of rerenting to somebody else, having a vacant apartment; there's no rent collectable after termination and the landlord is terminated by his own act. The landlord perhaps has the costs of advertising, interviewing tenants, doing credit checks, finding a new tenant and installing that tenant in the premises.

It may be that the tenant's circumstances that created the failure to pay rent are just temporary. I can think of low-income tenants who suffer an interruption of earnings and have a two-week delay before getting unemployment insurance. That in itself is sufficient to create non-payment of rent, but it's possible that the situation can be worked out. Certainly the landlord has a rent deposit, as most landlords do; there is considerable protection for the landlord available in that deposit and the conditions that a judge can impose on the tenant in relieving the tenant from that eviction.

I just view part 4 as almost a complete code. We don't need leases, we don't need agreements, we don't need rules, we don't

need regulations, because it doesn't matter whether I've got a lease or not, if I start having loud parties, I can be thrown out. If I have a lease, the situation is exactly the same and I should be thrown out if I'm going to continually disturb other tenants.

The approach of the green paper I find most disturbing. First of all there is the lack of knowledge and information of what is going on. Then there is the facile assumption that tenants will delay and disrupt; and then there's the total ignoring of what's involved in eviction. I think of low-income people, in particular; I've been very much associated with them. Eviction has enormous consequences for the tenants and their families and for society. The welfare department gets involved with moving expenses, all kinds of things of this nature occur. I just don't like it and I don't think you should like it. Somebody moves into an apartment unit, a townhouse or home, they should be able to look forward to some continuity in a home except for voluntary departure or gross misconduct.

**Mr. Acting Chairman:** The problem is finding the gross misconduct.

**Mr. Bryce:** Yes, well I think you've got it right here.

**Mr. Acting Chairman:** If you ask a landlord about gross misconduct—you might get a different definition than you would from some tenants.

**Mr. Bryce:** Yes, for a landlord keeping a cat can be gross misconduct. That is not the law in Ontario now and I hope it isn't in the future. I understand that Cadillac Fairview recently changed their policy when they found out that having a cat, although it was a breach of the lease, was not grounds for eviction. I think keeping a St. Bernard should be, in most cases, but it's a question of fact.

**Mr. Acting Chairman:** What size dog is the division?

**Mr. Bryce:** It's a common sense decision that can be made readily by any factfinder.

**Mr. Acting Chairman:** Yes, I'm being facetious.

**Mrs. Campbell:** A snake would be enough for me, they stink.

**Mr. Bryce:** Or a cat in a situation where there's a duplex with a common entrance and the landlord is allergic to cats. No problem with that at all. No one should be required to put up with that.

The subletting and the lease proposals in the green paper, I have some difficulty with. I think section 91 is pretty good as it is. It could be clarified. I think the only reason

the landlord should be entitled to withhold consent to subletting is financial irresponsibility. As for allowing landlords to insist on leases beyond the initial lease that they required when a tenant moved in, I find that to be quite a burden to a lot of tenants who would, for example, move in in September of the year and who want to stay till December of the following year. In the following August, according to the proposals of some, the tenant would be faced with the choice of moving out and trying to find some other place for four months or being stuck with a lease for a year.

I don't see much difference between security for the landlord in having the initial 12-month lease plus month-to-month thereafter and having 16 months in the beginning. The one-year figure is pretty arbitrary. It's convenient for all. It's a reasonable period of time to commit oneself to at the outset, but after that period of time month-to-month seems fine to me. Sixty-days notice gives most landlords, except in a higher vacancy situation, an opportunity to rerent.

London, I'm aware, is a special situation with its vacancy; it's very uncommon. As for periods of time, the example that is used most frequently is rent arrears. Fifteen days is the standard time, virtually a grace period in commercial leases. I don't see why it should be reduced for residential tenancies. We have that for the common law; we have that in the Short Forms of Leases Act: the right of re-entry does not arise until 15 days after the breach.

If the landlord is determined to use eviction as the means of collecting, the present structure allows a landlord to serve notice on the day after the rent is due and to be in court three weeks later.

**Mr. Acting Chairman:** What you're saying is at variance with one of the people appearing this morning who indicated that it takes 83 days to evict a person for non-payment of rent, from start to finish, using the procedure that's presently available.

**Mr. Bryce:** I'd say that's categorically not so. First of all, it's right in the act. You can serve the notice of termination as soon as the default has occurred. I think you have to wait for the second day, because I think the common law still allows you to pay rent until sunset or something of the sort on the day it's due; but the landlord can apply on the 15th day after that.

**Mr. Acting Chairman:** Yes, but the procedure — and I personally have gone through the procedure—



**Mr. Bryce:** The procedure in practice in the courts can be very difficult. Section 106 needs clarification.

**Mr. Acting Chairman:** That's what we're saying. I may be incorrect in saying 83 days, although this gentleman before us this morning said that's what it was. Having gone through it myself as a lawyer, I'm familiar with the time that it takes; and while it may not be 83 days it would have to approach it.

**Mr. Bryce:** You don't have to wait until the date of termination has gone by; you can apply the week before that. The difficulty is perhaps with the county court clerks, on their interpretation of the act, insisting they have a right to require you to make an appointment with them first so that they won't have too many cases on one day for the first appearance. They seem to require a first appearance. I say that's not correct, but they make both sides show up, in fact, even if a written dispute has been filed. They will delay you, in practice, even though there should be nothing different from the practice in issuing a writ. You issue the writ and the defendant has 10 or 15 days from the time of service on him.

In my view, there has been misunderstanding about the meaning of section 106. Section 106 with the 1970 structure was fine and 1972 was all right as well. Then when 1975 came along, you took a section from here and a section from there, a word from here and a word from there and made a mess out of it. It should not be necessary to go through the procedure of attending at the county clerk to obtain an appointment and then finding out when you're going to fight it out in front of a judge.

**Mr. Acting Chairman:** May I just ask how long would you anticipate the period prior to eviction, assuming good cause? Putting aside the question of good cause for the moment, how long would you say that a period would be appropriate for a person involved in non-payment of rent to be evicted?

**Mr. Bryce:** About a month, the period of the maximum permissible rent deposit. I'm aware that some landlords don't obtain the maximum. I think London is a situation where they very clearly don't.

**Mr. Warner:** It's very interesting to me that on the first page in the third paragraph you mention, "Very few cases are reported in the law reports. Does the Attorney General know how security of tenure is being interpreted in the courts?" It relates to a question which the chairman may recall that I raised earlier. I asked when the Attorney General's department would be joining us, could they

inform us as to whatever studies they've done during the period of time in which the Landlord and Tenant Act has been enforced? What kind of examination have they given to how the Landlord and Tenant Act has been used in the province of Ontario, its success, its weaknesses and so on?

I'm quite curious to know whether the Attorney General's department has examined the Landlord and Tenant Act as to whatever weaknesses there may be. Can they tell us how security of tenure is being interpreted in the courts in some way? I assumed that request had been passed along to the Attorney General's department earlier.

**Mr. Acting Chairman:** Mr. Fram is here and he's taken note of the question. We will get the other question that you raised earlier to him.

**Mr. Warner:** It hadn't been passed along earlier? Do you mean they weren't prepared to respond?

**Mr. Acting Chairman:** He just came rushing in, so perhaps it was passed along. Why don't we restrain ourselves to questions of the witness? Then we'll be able at some moment in time to entertain this.

**Mr. Warner:** That's fine. I just found it quite interesting that the same point which I had raised a few weeks ago—probably a month ago is mentioned again in this brief. It's an excellent brief. I don't have any comments.

**Mr. Acting Chairman:** Thank you for coming before us, Mr. Bryce. We appreciate your help and information. We have the benefit of the brief which is very detailed and very specific. We appreciate that. It's very pointed and it will be undoubtedly of some value as we go through our deliberations. They will occur very shortly, and we appreciate it again. Mr. David Holzman has been waiting a good long period of time today.

**Mrs. Campbell:** He has been very patient.

**Mr. Holzman:** I have some copies of my brief here. I attended a meeting held by this committee on April 19, 1978, in order to listen and learn. I must say that some of the remarks I heard that day sickened me and gave me the feeling that I was in a very hostile environment. I had time to think about it. There being much at stake, I decided to come back and have attended all the meetings since. I have asked to be permitted to present this brief to you on my own behalf.

I have worked hard all my life with the goal that—



[5:00]

Mr. Chairman: Mr. Holzman, would you be good enough to identify basically what you are?

Mr. Holzman: Just give it another sentence.

Mr. Chairman: Thank you. That will be fine. Sorry to have interrupted.

Mr. Holzman: I have worked hard all my life with the goal that when I became old I would have some security and equity to fall back on. For this reason, almost 17 years ago I bought an apartment building. I worked at it very hard. I was janitor, carpenter, plumber, electrician; I fixed toilets, cleaned toilets and was on call 24 hours a day. I still work almost as hard. In addition to all that, I have invested my life savings into this apartment building. I had confidence in our country and the hope that in my old age I would have some revenue from this investment.

During all those Wednesdays that I have attended meetings here, I have heard many opinions expressed, pro and con, but in my opinion none has dared to pinpoint what the cause of our problem is. First, in order to attempt to find some answers to our problem let us establish some common ground. To this end, it has been said here by various parties that they agree the landlord or an investor is entitled to a profit. What is understood by the term "profit"? A profit, as established by common economic practice is the return derived from the equity invested in a property or business at current market value.

It therefore makes no difference when a property was bought or at what price. A man who bought a house, let us say 25 years ago and paid \$10,000 to \$15,000 for it, today has a house with a market value of \$60,000 to \$75,000. This man in my opinion has not made any profit, the reason being that he had a house 25 years ago and has a house today. All he gets, if he sells, is a lot of money with which he still can only barely buy another house. If this man should get a sum large enough to buy two houses or a house plus other values, he would have made a profit. All this means is that we are only playing with larger figures.

However, let us go back to what seems to be the general understanding that an investor is entitled to a fair return on his investment. Let me give you some figures. One thousand dollars invested at 10 per cent compound interest, with no risk or work involved, increases to \$2,593.74 in 10 years; \$1,000 invested for 20 years increases to \$6,727.50.

Bearing in mind those figures, an investor or landlord should at least receive an equal return on his money, considering his risk and his work involved. In other words, a fair return would be what is available to anyone in the open marketplace, investing money through bonds or first mortgages.

As I will show you later, this is very seldom the case. It has been said here again and again that we have a landlord and tenant problem. I do not think so. In my opinion we have a social and economic problem, not a landlord problem at all. Let us establish a few facts.

We live in inflationary times. The word inflation has not been used here by anyone. Why? Although some hinted around it, no one came right out and mentioned inflation. What is inflation? Inflation is diluted money—lots of money but with very reduced buying power. Inflation is worldwide right now. We are not only ones plagued by it. To emphasize inflation and what it means, here are a few examples.

Milk, which Canada has in abundance, now costs 60 cents a quart. Bread, with Canada being a wheat country, a one-and-a-half-pound wholewheat loaf of bread is now 57 cents. Meat, fish and fish products, where Canada has more fresh water than most other nations, are at enormous prices. Homegrown vegetables and fruit are priced almost out of sight. You will notice that I mention only a few staples that we have an abundance of, not imported goods.

Speaking about foods, Statistics Canada came out with the following: Beef cost you 44.3 per cent more in April than it did a year ago; fish cost you 16.5 per cent more; fresh fruit cost 9.7 per cent more; beverages other than booze cost 25.1 per cent more. That was the message Statistics Canada gave today in the consumer price index figures for April. Food prices are rising by 14.7 per cent a year, which means that the same basket of goods has doubled in price since 1971. By the way, this article was in the Toronto Star on May 16.

An electrician, a carpenter, a plumber now gets \$15 an hour. The average working man who earned \$2 years ago and now gets \$6 or \$7 an hour is, in my opinion, not any further ahead. All he has is more diluted money. Streetcar tickets that in 1951 cost 25 cents for four tickets are now seven fares for \$3 or 55 cents cash—55 cents instead of six and a quarter cents. The cost has risen to 8.8 times what it was in 1951. Please remember also that the TTC is subsidized. This is inflation.

Naturally, since everything has risen so much, rent has also risen in price. Let me say it very clearly; yes, rent is not cheap. But by far, it has not risen in proportion to other goods and commodities. In Toronto between 1961 and 1977, rents increased an average of 143 per cent, while during the same period the average family income increased 234 per cent—see an article in the *Toronto Star* of May 18, 1978.

Rent, in my opinion, is the biggest bargain today. A man who pays rent does not pay rent into the landlord's pocket. A landlord is only the middleman. A landlord pays for his tenant's property taxes, his fuel bill—oil or gas—his consumption of water and hydro; his repairs, maintenance and upkeep. The landlord also pays mortgage and insurance and many other expenses. If, after all this, there is anything left of the rent money, then and only then does this become the return on the landlord's investment.

I would like to state here very clearly, without hesitation, the return is very small. I dare to say that there is no landlord or investor in Toronto or Ontario who, to the best of my knowledge, makes a return on his equity of even 10 per cent. Most don't even make five per cent. Let me give you some figures from my own experience. It cost me \$1,700 to heat my building in 1964. It now costs about \$9,000 to heat. Fuel oil rose 183 per cent in the last four years—see an article in the *Toronto Star* of May 18, 1978.

Property taxes in 1963 were \$7,300. In 1977 they were \$17,300. The water rate in 1965 was 43 cents per thousand gallons. The water rate today is 87 cents per thousand gallons. Hydro rates in 1971 were 1.3 cents per kilowatt-hour. Hydro rates in 1977 were 2.25 cents per kilowatt-hour.

I hope that from those few examples you will see how much costs have risen. This is inflation.

We hear the general complaint today that there are no apartments available, that we have no vacancies. This is not true—see an article in the *Toronto Star* of May 18, 1978. All you have to do is to look in our newspapers and you will see pages and pages full of advertisements for apartments for rent. Taken at random, on May 3, 1978, the *Toronto Star* had several pages of ads for apartments to rent and one whole page called "Apartment Living Today." It had ads for apartments to rent in old buildings, new buildings, adult buildings and family buildings. It is therefore not true that a tenant has to live in the apartment he is in. If he does not like his accommodation, he can change it, in the same way that he can shop in any

store he pleases. It is true that this situation will change in the future if controls are retained but, at present, the argument that there are no apartments available is invalid.

I would like to note here, however, that a tenant who rents an apartment rents the apartment; he does not own it. He does not buy the apartment and surely does not buy the building by paying rent. A tenant who pays rent certainly gets good value for his money. Renting an apartment is the cheapest accommodation there is. It is much cheaper than owning a house and also much cheaper than buying and paying off a condominium. The only cheaper accommodation is subsidized housing. Therefore, I dare to say that a tenant who rents an apartment is still getting the biggest bargain today.

It has been said here by various parties that a tenant pays off the landlord's building. This is a fallacy. I have been buying for a number of years at Eaton's or Simpsons. Does that give me ownership or any rights at all in those firms? Eaton's moved recently here in Toronto to new, very fine, much larger premises. Does that give me, by buying there for many years, any rights or claim to shares or profit participation in Eaton's? I bought there because I liked the merchandise and the service.

Apartments, in my opinion, can only be built by the private sector. It has been tried and tried again by the government to build housing, such as CMHC and limited-dividend housing, et cetera. They have all been failures. We here in Ontario have the best housed people anywhere in the world. What is the reason for that? Because an investor or developer could build and supply the housing. The moment controls and other restrictions were initiated the investor, in particular the foreign investor, disappeared from our market.

I know of a group of European investors who invested many millions of dollars yearly, mainly in apartment buildings in Toronto and Ontario, for the last 15 years. Since controls came into effect, they have instructed their representative here not to invest one dime for them in Ontario. Their representative is still here in Toronto and still invests millions of dollars for them every year, but in the United States.

The loss of foreign investment is a very serious blow to our economy. The lack of this much-needed investment contributed to the plunge in the value of the Canadian dollar. It has to be mentioned also that many buildings built here were bought by foreign investors. Since controls came into effect rental apartment buildings are not being built any



more. This also has added to our unemployment problem. Our unemployment rate is growing faster than in any other western nation. The building industry and its associated trades are an enormous source of employment.

In addition to withdrawal of foreign and local investment money and increased unemployment, controls will undoubtedly lead finally to a scarcity of rental accommodation.

Controls also mean dilapidated buildings or slums. It is true that slums are not visible at once. It takes years. It takes years to build new buildings in the same way that it takes time to see the carpets disintegrate and the hallways getting shabby. It takes time for the roof to start to leak. As a matter of fact, you don't notice a leaking roof from the outside at all. In my own case, I have needed to replace the roof for the past three years. I have not done so. I have repaired and patched whenever I had a problem. But there comes a time when patching and repairing do not do any good any more. The next thing is that water gets into apartments, which means broken plaster, cracked ceilings and wet apartments. To replace my roof would cost about \$20,000. The only way to finance this is to borrow the money; but borrowed money costs interest, and I cannot invest \$20,000 without seeing any hope of a return of this money.

[5:15]

That is the reason investors or landlords have tightened their belts and have not done any major repairs, only a patch here and a patch there. Only the most urgent and cheapest repairs are being done, and this is what creates slums. At one of the meetings that I attended here, a gentleman spoke and told you that he had bought an apartment building 30 years ago for \$80,000 cash. The value of his building is now \$175,000. One of you gentlemen figured out that that man made an 800 per cent profit and became a very wealthy man.

First of all, the gentleman who made this remark is poor in figuring. Secondly, the man who bought a building 30 years ago for \$80,000 cash is now a much poorer man than he was then. His buying power today with \$175,000 surely is by far not as much as his buying power was 30 years ago with \$80,000.

It is true that we have people who cannot afford to pay rent. This is not only a problem for the landlord but a social problem; a problem for you, me and for all of us. It is also true that housing is a necessity. So is food, clothing, medicine et cetera. Are those goods also controlled? Are the food chains giving

their merchandise away free to people who are short of money?

I have great sympathy for people who are ill, crippled or have other handicaps. But I have little sympathy for people who earn wages and prefer to waste their money on booze and high-style living and then cry that they cannot afford to pay the rent.

May I also tell you that in my 17 years as an apartment owner I have met mostly nice people as tenants. People in general are nice and decent. This applies also to landlords, of course. There are a few rotten apples in any barrel. This applies to landlords as well as other people.

I have here a file of letters written by tenants in my building during the last 17 years. All these letters, unsolicited of course, express their appreciation for the good feelings they have had while living in my building. I am sure that other landlords have had similar experiences. At the end I would like to read a few letters.

It has been said here again and again that Hamilton has a high vacancy rate and still the rents are not dropping. The reason for that is twofold in my opinion. Firstly, any article that costs the merchant \$1 cannot be sold for half a dollar, or the merchant goes bankrupt, unless he uses this article as a loss-leader and makes up for his loss with other merchandise that he can sell at a profit. The apartment owner has only one article for sale and cannot afford to sell it at a loss for he has nowhere to make up his loss.

The second reason is rent control. In the case of an apartment that rents for, let us say, \$225 per month and stays empty, a landlord would gladly rent this apartment to a suitable tenant for \$200 per month in the hope that at a future date he might be able to recover his loss. But with rent control and other controls, by renting this apartment for \$200 he establishes a new price and is never able to recapture his loss. Any landlord knows that to have an empty apartment for one or two months is a costly proposition. It takes a long time to recover this money. Lately, frequent ads in our newspapers of apartment buildings, townhouses et cetera being sold under power of sale bring to mind very unpleasant memories of the depression era.

The only way we will have affordable rental housing is without any rent controls whatsoever. Supply and demand are the best equalizers; it has worked in the past and will also work in the future. Controlled rent will leave us with a demand on rental facilities without new housing being built and with present housing deteriorating into slums.



No investor is going to invest money with these kinds of controls in effect. Any investor knows that a new building will not give him any return for a number of years. Without controls he hopes that at a later date he will get some return for his money. With controls he knows for sure he will never see a return, so why should he invest here in Ontario in apartment buildings?

The fear that removal of rent controls will skyrocket rents is unfounded. Rents went up when taxes, fuel et cetera went up. When inflation will be contained, rents too will level off. Removing rent controls will slowly bring back the investor and the builder and will make sufficient apartments available at rents that will be controlled by the law of normal supply and demand.

I would like to tell you the story of the farmer who had a horse. The horse did all his chores, did the ploughing and the pulling of the wagon. In short, it was a very good horse. The farmer fed his horse daily with straw and two buckets of oats. One day the farmer made the mistake and gave the horse the straw but by accident gave him only one bucket of oats. The horse pulled and worked just the same as before.

After a few days it occurred to the farmer that he had been foolish to feed the horse two buckets of oats when one bucket would do and he could save all that money. The horse got one bucket of oats and continued to work well. A few days later the farmer had a bright idea to cut out the oats altogether in order to save money. For two days the horse continued to work well, but on the third day the farmer found the horse dead. The farmer was very disappointed and remarked: "That is too bad. I finally trained you to live without oats and you had to die on me."

The lesson is, don't kill the cow that gives us milk or the horse that does our work. The investor, builder and landlord who made us the best-housed people anywhere in the world, don't kill them off, let them live too.

Our country was built on the ideals of a democratic society with freedom for its citizens and free enterprise for all. Controls are a form of dictatorship that can only lead to the destruction of our country.

**Mr. Acting Chairman:** Thank you very much, Mr. Holzman.

**Mr. Holzman:** There was so much mentioned here before about landlords and how terrible those people are—

**Mr. Acting Chairman:** I think the committee will probably take judicial notice of the fact that you have some well written testi-

monials. I don't think there would be any argument among the committee if we went over that matter.

What is your address, Mr. Holzman?

**Mr. Holzman:** 130 Caribou Road, Toronto, MSN 2B3.

**Mr. Acting Chairman:** That's your apartment address?

**Mr. Holzman:** No. That's my private address. My private address is always gladly given. It is posted in my building.

**Mr. Acting Chairman:** I am inquiring what is the address of your building.

**Mr. Holzman:** One Crownhill place in Etobicoke.

**Mr. Acting Chairman.** Thank you, Mr. Hall has your letters of testimonial and perhaps during the questioning he can pass those about to other members of the committee.

**Mr. Williams:** Mr. Holzman, how many units are there in your building?

**Mr. Holzman:** Thirty-three units.

**Mr. Williams:** What specific changes, if any, would you like to see made in the present Landlord and Tenant Act, which is the basic part of our discussions today? Where are the areas that you feel inequities exist vis-à-vis landlord and tenant?

**Mr. Holzman:** From my personal point of view I never had any problem with the act. As you can see from those letters, for me it is a harmonious family. I don't know it, it doesn't exist for me.

So I can't speak from personal experience what good or bad the act has done for me. I can't speak on that and it would be unfair for me to do so. As I said at the very end of my brief, I see controls in any shape or form as a dictatorship. And dictatorships have not worked anywhere in the world.

**Mr. Williams:** Have you had any personal experience with tenants who have been delinquent in payment of rents or who have left the premises without paying their rent?

**Mr. Holzman:** Yes. I have had tenants who didn't pay their rent. I went to those people and said, "Look here, you can't afford to pay the rent or you don't want to pay the rent?"

I will give you a factual story: I had a tenant in my building. I can mention the name here because it doesn't mean anything—his name was Clark.

**Mrs. Campbell:** Joe who?

**Mr. Holzman:** It means something that's why—no, no; it means something, that's why I have to mention the name. His name was Clark, okay. He did not pay his rent and then finally he moved out. I didn't say a

word to him. He moved out and said to me, "Holzman, I will pay you, one day, your rent." I said, "Fine." Six months later I get a notice from the court to come as a witness. I had never had court business. I come to the court. Here sits Mr. Clark; there sits Mrs. Clark. I asked them to tell me what am I doing here. I didn't ask you for rent, why do they come to me?

They said, "You are a witness." What am I witnessing? So finally the judge comes and says do you know those people? I said yes. Who is this? That's Mr. Clark. Who is this? That's Mrs. Clark. They had a child then. Later on the judge asked me if they had the child in my building and if I knew that this is the husband. I said, "Your honour, they were in my building but if he's the father and she's the mother, that's a little bit not in my jurisdiction, please."

Then he says, "Repeat it again. What's his name?" I said, "Mr. Clark." And what's her name? "It's Mrs. Clark."

It developed that she was not Mrs. Clark, that's why I had to mention the name. He had another wife. He also had another name, an assumed name. She was married to another name. As a matter of fact, they had called me only to verify that I knew them as Clark—Mr. and Mrs. Clark. Okay. When the court was finished, Mr. Clark comes over to me and says, "Mr. Holzman you'll still get your rent." It has been over a year. I wrote it off. I forgot the whole thing.

Finally I was passing on the street where he lived. I didn't drive there—it would have been a waste of gasoline. I was driving by. Here is the street and number. I said, "What have I got to lose?" I knocked at the door. This lady opens it up. She is dressed like a queen. I see a coloured telephone, which I haven't got; a coloured television; beautiful. I said, "That's beautiful. Congratulations, Mrs. Clark." In the meantime I saw she was, pardon me, quite pregnant, it was quite visible.

**Mr. Charlton:** One hundred per cent?

**Mr. Holzman:** Ninety-nine per cent, quite visible. She asked me, "Did you come to see —?" and she mentioned the first name of her husband there. I said, "Actually, yes. I drove by." And she says, "Mr. Holzman, don't have illusion. You can't get any rent. This bum I never see." So when she says, "This bum I never see," I looked at her—I mean naturally—if she never sees him, I mean under her condition.

So she says, "Oh, he comes the odd time, but you can find him at the Holiday"—this

is apparently a beer place in Etobicoke—"that's where he spends day and night." Okay.

Then I said, "Tell me. What about all this beautiful bungalow, who pays for it?" She says, "Welfare. You see, they gave me this house. The more children I have, the more I have, and you will never see him and you will never have any worries, and he sits there and drinks."

This hurts, not that I didn't get my rent, this hurts. This was one experience—I can give you quite a number of experiences with not paying rent. I forgot about it.

**Mr. Acting Chairman:** Thanks, Mr. Holzman.

**Mr. Samis:** Could I just ask one question? Mr. Hall and I have been stimulating our literary instincts by reading these letters. Could you just give us some idea of the size and nature of your apartment? We notice most of the letters here are 1976 back to 1971, I believe.

**Mr. Holzman:** Yes sir. In my building people live 10 years, 12 years. As you see there are people who said they would live there until they moved to the United States but not until he dies, so they don't move. But I will tell you a little story about the building. Since you asked sir.

**Mr. Samis:** I'd like to know the size and nature first.

**Mr. Holzman:** I will give you the size and nature of the building too. You want to know it: I will answer you.

**Mr. Samis:** How about that first, and then the story?

**Mr. Holzman:** No, no; there's no story, facts. I give you facts, I don't tell stories; I'm not a story teller.

**Mr. Samis:** You don't know any—

**Mr. Holzman:** I believe in facts.

**Mr. Samis:** You fooled me on that one.

**Mr. Holzman:** No, I didn't fool you—

**Mr. Samis:** Well go ahead.

**Mr. Holzman:** First of all the size—it is a 33-unit apartment building. It was built in 1953 by a very famous lawyer who was a member of parliament. He sold it eight years later—no he did not sell it, he died.

**Mr. Samis:** There were two separate men.  
[5:30]

**Mr. Holzman:** A trust company sold it later. He bought it for—please listen to the figures—\$325,000. The building was on the market for two years by the largest trust company, and I bought the building for \$175,000. So you always hear the one side,



how rich they get. This man, a member of parliament, a very famous lawyer, I will not mention his name here—

**Mr. Acting Chairman:** I am not sure they can be two separate people—

**Mr. Holzman:** All right, he sold the building then for a \$150,000 loss. The reason for it? Vacancy, et cetera, et cetera. So you hear only from one side about how much money they make. Here a man lost \$150,000 and was forced to sell it, or better say his widow finally sold it. I met her once for about two minutes—I have never seen the man.

Does that answer your questions?

**Mr. Acting Chairman:** Yes. Thank you for your brief, Mr. Holzman. We have the benefit of it. Mr. Hall has digested your letters—and Mr. Samis has—

**Mr. Samis:** Mr. Makarchuk needs some late night reading of a different nature.

**Mr. Acting Chairman:** Yes, certainly better than some of the stuff you have been reading, Mac.

Could we now proceed to the Community and Legal Aid Services Program, Osgoode Hall Law School. Mr. Murray Muskin; and can I inquire if Milvan Construction Limited are here?

Thank you. You are the two briefs that we wish to entertain prior to our—I am not sure there will be a dinner break come to think of it—

**Mrs. Campbell:** There will so.

**Mr. Acting Chairman:** I am going to ask you to have pity on the committee and realize that we have another 34 people to go through later this evening and tomorrow morning before breakfast, so the committee expects to be sitting somewhat longer than it originally thought today. We are breaking the rules of the Ministry of Labour with respect to hours of service. I would suggest that you will get your greatest attention if you keep your comments as brief as possible and allow the members to penetrate your points with a few questions.

Do you have a brief with you Mr. Misikin?

**Mr. Misikin:** Yes, it is now being circulated among the members of the committee.

First, a bit of background on who we are. My name is Murray Misikin, and I am a third-year law student at Osgoode Hall Law School. I know some of the members of the committee from my past involvement in the Ontario Federation of Students. It is good to see some of you again—it is good to see all of you again, actually.

With me is Paul Tory, who is a second-year law student—and he is also the head of

the Landlord and Tenant Division of CLASP. CLASP is a community legal aid clinic which provides free legal assistance to low-income earning persons. We're talking roughly about an average annual income of \$8,000 a year or less. We deal with people from all parts of Metropolitan Toronto as well as neighbouring areas such as Oshawa and Brampton.

We have just finished exams at the school and that is our excuse, but I would like to apologize to the committee for not having this brief ready and out to you in advance of this hearing. We just finished it today.

It is not a technical brief like many others you have received. We are basically talking about what ideas and what opinions we have, based on our experiences in dealing with tenants of the lower-income brackets and dealing with the kind of problems they experience not only in landlord-tenant relations but in a wide range of other areas. We find that the amount of money that is paid in rent and problems of tenants affect them in all other aspect of their life, especially low-income earners.

**Mr. Acting Chairman:** Is there any significance in your acronym CLASP?

**Mr. Misikin:** It is a nice one.

**Mr. Acting Chairman:** Mr. Warner from the NDP wondered whether this was a landlord group but—

**Mr. Rotenberg:** Mr. Chairman, I have knowledge of this group and can testify that it is bona fide.

**Mr. Acting Chairman:** Given what Mr. Hall thinks it might be, you might exculpate yourself by withdrawing your comment.

**Mr. Misikin:** I appreciate that members of the committee are very tired and had a long day. The brief is not too long and taking into account the fact that members have not had an opportunity to read it before I will go through it, and I will try to go through it quickly. We will be very happy to deal with any question that you have.

Part 1—continue rent review. That is our conclusion, I will begin with our conclusion: Our experiences have led us to this conclusion, that there has been a very positive effect in Ontario from rent review and it should be continued, either in permanent or in semi-permanent form.

You have heard from a lot of tenant groups that housing should be a right. We agree with that. Housing is a necessity. People need it. Because it is needed by people, it is a necessity for survival that should be guaranteed as a right for society. Certainly in a



wealthy province such as Ontario, the government is in a position to guarantee a quality of housing which is affordable to people. This housing need not be provided directly by the government so long as the government can ensure that this housing will be provided by the private sector.

Rental accommodation is a major form of housing in Ontario, especially for persons earning low incomes. Problems in affordability of housing are most likely to occur for the low income earner. In 1975, the government recognized a serious problem in soaring rental prices and intervened in the market place to protect tenants. This intervention has had a very positive effect in stabilizing rental costs faced by tenants preventing a serious social crisis of overcrowded, unsanitary facilities, high eviction rates and lack of accommodation for the poor. For most tenants, it has made financial management possible and helped maintain standards of living in a period of general economic difficulty whose end does not appear to be in sight.

Politically, rent review has been one of the most popular of government programs in Ontario and we think there is good reason why. It is really helping people and we are dealing every day with the kind of people who are being helped by the rent review program. Unless there is a certainty that the unreasonable cost problems faced by tenants prior to the establishment of rent review will not recur, the program must be continued.

One of the problems that we have been trying to deal with that we see and we have understood to be a major concern is the low supply of housing in the province, in particular multi-unit rental accommodation, particularly that available for persons in low and lower-middle income brackets. We are not against the idea that the landlord should receive a reasonable return on investment, but we advise the committee to carefully study the matter of what is reasonable and what is not reasonable.

**Mr. Acting Chairman:** What would you recommend, just while you are at that point? What is a reasonable return?

**Mr. Miskin:** We haven't come up with an exact figure. It should probably be somewhat comparable to that which can be earned from other areas of investment.

**Mrs. Campbell:** Twelve per cent?

**Mr. Acting Chairman:** Second mortgages yield about 14 per cent today. Are you suggesting that figure?

**Mr. Miskin:** I am not suggesting any per cent. I am suggesting that the committee study this carefully. Unfortunately, I don't feel that we are in a position to advise you on this matter.

**Mr. Active Chairman:** I think that makes it very difficult for a committee when so often so many people before us suggest the word reasonable and leave it to our good fortunes to suggest a definition of it. I am not sure that we are able to do that.

**Mr. Duksza:** Should it be equivalent to what you get for a mortgage?

**Mr. Rotenberg:** He says a reasonable return should be comparable to investments in the market, taking into account the risk factor. I don't think lawyers or law students can define that one. Let someone who is an expert in economics, or our consultants, come up weighing the risk factor and other investments as to what would be a reasonable return.

**Mrs. Campbell:** We are paying a compliment to this young man, we think he might have had some suggestions. We have asked everybody else and nobody has been able to help us.

**Mr. Rotenberg:** He has answered in his way, and I think it is a reasonable answer.

**Mr. Acting Chairman:** Order. Please continue.

**Mr. Miskin:** Like everyone else, we are leaving it to the committee to decide what is reasonable. The proposition that the decline in construction of rental units was caused by rent review, we believe is completely unfounded. As the green paper indicates, construction began a slowdown before it was indicated that rent control would become a government policy. We are not saying that rent control has not contributed at all to the slowdown but we are saying that it is not the sole cause; it did not cause this to begin.

Supply problems do exist, and there are two possible approaches to solving them. One is to remove controls and to allow rents to zoom upwards to the point where investment is attracted by potential for supranormal profits. This approach would be a fairly simple one for the government to adopt and undoubtedly it would result in more construction. But it's our basic contention that human costs for such a policy would be devastating and that such a policy would not be advisable.

**Mr. Hall:** You are putting this in the Metro Toronto context, are you not, in stating that?

**Mr. Miskin:** We deal with clients in Metro Toronto and areas surrounding Metropolitan

Toronto. I guess what we're dealing with in this brief is from our experiences.

The alternative to allowing rents to go upward is to reduce the cost of producing rental accommodation for persons earning low and middle incomes through government incentives of some sort. If this is done, the government, I would hope, would make certain that the programs that are put into effect would be effective in accomplishing a purpose and not merely act as corporate welfare, to use an old phrase from federal politics. If subsidizing the costs of the private sector is not effective, then responsibility should be shifted to the public sector.

What we are proposing obviously involves considerable government expenditure. We do so, taking into account and being much aware of the government's current restraint program. However, within the government's restraint program we see some inefficiently spent money—that's one way of putting it. The Ontario budget for 1977 provided for extensive tax cuts for the manufacturing industries and the 1978 Ontario budget did the same for the mining industry.

The stated purpose of these cuts was to stimulate production and create jobs. No evidence has been produced either within the Ministry of Treasury, Economics and Intergovernmental Affairs or anywhere else that these goals are being achieved. Trends in the mining industry indicate that the effect may be an actual reduction in employment. From the Ontario Mineral Review, Ministry of Natural Resources, we could see a trend that in time with increased production in the mining industry the number of jobs goes down. Over a longer-term basis, though I don't have the figures with me today, I understand that the decline in employment is much more dramatic.

Tax cuts for manufacturing in 1977 were directly linked with the acquisition of new machinery. It's quite probable, in our opinion, that government-subsidized new technology in manufacturing and mining is actually eliminating rather than creating jobs. If the government wishes to continue its policies of subsidization of the private sector, it would be sensible to shift this subsidization to the labour-intensive and currently depressed construction industry.

What we're saying basically is that when the supply of affordable housing is low the solution is to lower the costs of private sector production or else shift production to the public sector. Raising tenant rents would be far too damaging a solution to this and would create far more problems than it would solve.

Looking at the possibilities outlined in the green paper of the various ways of what to do now with the rent review program, we're opposed to any termination of rent review. We would be especially opposed to an immediate termination of it. For one thing, supply shortages would continue to exist for at least a few years. The present landlords, who already benefit from short supply through vacancy rates, would stand to profit unconscionably from higher rents in the interim. Tenants with low incomes, such as our clients, would face immense difficulty from higher rents, leading to more evictions, problems in landlord-tenant relations and demand on public housing. This would add considerable public expense.

Immediate termination would restore the problems which led to the establishment of controls. We don't believe that landlords would engage in voluntary self-restraint, as is suggested by some people. There's been no evidence that landlords are motivated by humanitarian grounds or public interest but rather simply by profit—that's just understandable for any business person. It is the role of government to take care of humanitarian interests and keep an eye on the private sector.

The ultimate effect of gradual termination, we feel, is almost equally as detrimental as immediate termination. It would result in short-term, less disadvantageous situations. It would cushion or delay the harmful effects on tenants and provide the government with time to prepare and implement alternative means of dealing—

**Mr. Acting Chairman:** We've got a rather difficult problem here in that it's fair to say we've relegated rent control as a question to another period of time. We relegated today to landlord and tenant problems. I appreciate you've had difficulties with your examinations in interceding, but we do have the benefit of the brief and the full wording. I think if you could constrain your comments to questions of the Landlord and Tenant Act per se as opposed to rent control, you will make the members feel they have got more out of your discussion.

[5:45]

**Mr. Miskin:** We were aware that the committee was primarily dealing with landlord-tenant problems today, although since we did have a late start, which actually came after the period in which you were dealing primarily with rent control, we decided that we would concentrate on what we saw as the most urgent task before this committee. We would hope that you would be willing to give



it some degree of consideration today. We really don't have too much to say on the landlord-tenant subject today, because we simply haven't prepared for it. We have a lot to say about it, but not today.

**Mr. Acting Chairman:** Let us have the advantage of your brief in its written form as it relates to rent control. I know the members will be able to review this prior to our deliberation on it, which will be occurring very shortly. However, in fairness, we announced that we would be relating ourselves only to the question of landlord-tenant relations; I feel, having restricted other people to that precise position, that I cannot now deviate from that.

If you would just address yourself to landlord-tenant relations and assume that we will be reviewing your brief as it relates to the rent control question, I think you will have struck a good accord with the committee.

**Mr. Miskin:** Mr. Chairman, our brief does not deal with general landlord-tenant relations. It deals exclusively with rent review. With your permission, I would like to outline very briefly the points we make towards the conclusion of our brief, where we suggest some changes in the Residential Premises Rent Review Act. If it is the desire of this committee to afford us an opportunity to come back at some future date to talk about landlord-tenant relations, we would be happy to do so.

**Mr. Acting Chairman:** Thank you. I think the committee would find itself interested in your conclusions briefly as they relate to the rent control question, recognizing you are not touching the subject matter of today's discussion. Perhaps you could deal with it in that way.

**Mr. Miskin:** Thank you very much, Mr. Chairman. Beginning at the top of page seven, some changes we propose: Regarding university and other residences at educational institutions, we find the current provisions of the act to be completely inadequate. The requirement of consultation with recognized student associations has not been effective at all. In some cases the consultation that is done is really a token measure. In other cases there is no consultation with the appropriate student associations. The main problem, though, is that there is no remedy when rent increases do appear excessive. We would like to see university residences fully covered by the rent review act.

**Mr. Acting Chairman:** Are you referring to a consultation as between whoever is setting the level of rent and the students?

**Mr. Miskin:** Yes, as provided for in section 14(1)(aa)(iii) of the act.

We would also like to see the act extended to include rooming houses and bachelorettes. They should be clearly and explicitly included under the act. These people we are talking about here have extremely low incomes and are especially in need of protection of the act.

We support the proposal which many tenant organizations have put forward of a central registry of rents to make available information on rent levels in buildings. We also see some value in posting these listings locally or within buildings. This would prevent the common practice of illegal rent increases to new tenants and help reduce discrepancies in rents between identical units in the same building.

Something that touches us especially is that currently there is no right to counsel by tenants at rent review hearings, and our status representing our clients at rent review hearings is, at best, uncertain. We would recommend that the act be amended to provide that tenants have the right to appoint counsel, or agents acting as counsel, in rent review hearings.

We support there being greater tenant access to hearings by encouraging them to be held in evenings and at convenient neighbourhood locations.

Procedures and factors by which officers determine allowable rent increases should be clearly outlined in the act's regulations. We find that at some hearings there are a number of factors brought into account about which there has been no indication that these factors would be considered.

We believe that use should be made of section 19 of the act which allows for technical assistance to tenants in proceedings under the act. We find there is often an imbalance of skills presented at rent review hearings, where landlords usually have several accountants with them or have consulted them in advance, while tenants have a great deal of difficulty in doing things like that. We have no objection whatsoever to making that kind of assistance available as well to landlords who have small operations and limited resources, just to give a greater equality between parties in the hearings.

We support proposals by a number of organizations representing tenant interests that a single tribunal be established to deal with landlord and tenant problems in an efficient, streamlined and simplified manner. Here we are starting to touch on the general area of landlord and tenant relations. We would like



to see some degree of integration and a much more simple, one-place-to-go type remedy for tenants and for landlords in the situation. This would also allow such a tribunal to pick up skills and experience in dealing with these types of problems and to be far more effective.

That is really all we have to say. We tried to keep it as brief as possible. As I said, we would be happy to come again to the committee and answer any requests that you may have for additional information on any other matter. Paul Torrie and I would be happy to answer any questions you may have for us now.

**Mr. Acting Chairman:** We would be pleased to have you come before us again. Regrettably, we will have written the report by then. Mr. Kennedy has some questions.

**Mr. R. D. Kennedy:** I have just one question. You mention that if the industry sprung loose there would be soaring rental prices and that rent review has had a very positive effect. We heard earlier this afternoon from the Social Planning Council of Metropolitan Toronto, that rent review has in effect had a rollback effect of some five per cent on the rents initially asked for. I was wondering on what basis you make your judgement that they would skyrocket and take off. Do you have something you could help the committee with as to the reason this would happen?

**Mr. Miskin:** Looking at the situation in 1975 as outlined in the green paper, there was an increased tendency towards massive increase in rent levels. This is well documented in the green paper. Given that rent review has restrained the amount of increases for the past two and a half to three years, we say if it is lifted there is no reason why rents would not be increased to a very large degree by landlords wishing to catch up immediately for past losses or past inadequate profits.

**Mr. Duksza:** Diminishment in profits.

**Mr. Miskin:** Past diminishment in profits.

**Mr. R. D. Kennedy:** The HUDAC response to that was that they had other commodities and other indices that were comparable and they seemed to rise somewhat parallel. In fact, this same report makes reference to other increases and the effects of inflation and so on that sort of matched them up with other areas of economic activity. But your feeling anyway is that they would skyrocket?

**Mr. Miskin:** That is our feeling from dealing with landlords.

**Mr. Williams:** Mr. Miskin, when we were in London the other day, representatives

from the Ontario University Students Federation appeared before the committee. I am referring to recommendation 1 in your proposals. While they put forward the suggestion that perhaps rental accommodation in the universities should be entirely taken care of by the state, there was no acknowledgement that any of the rents that did exist which they were subject to were excessive or matched or exceeded what the rents were in the marketplace around about where the universities were located.

Your proposal would appear to suggest that there have been instances of excessive rents in student housing accommodation on campus. Do you have any specific instances of that or is this just an impression you have?

**Mr. Miskin:** It is based not so much on the fact that rents in university residences are higher than the market level outside because I don't believe they are.

**Mr. Williams:** No, they are quite a bit lower.

**Mr. Miskin:** Often they are subsidized to some degree—

**Mr. Williams:** Very much so.

**Mr. Miskin:** —and students are thankful for that. However, frequently students have a number of criticisms about the nature of expenses in university residences in operating the buildings and see a great deal of unnecessary expenditure which they would like to see ended. Through the process of consultation which is available, they may put forward the suggestion that there is a great deal of waste in managing the university residences, but they have nowhere to go with that. If the administration says, "We don't think we are wasting money," they have nowhere to go. If covered by rent review, they would be able to go before a rent review officer and make these kinds of arguments and have them considered.

**Mr. Williams:** The facilities on campus operate on the basis of a net cost rental arrangement, so there's no profit motive involved; so I'm wondering where the need exists, other than that you suggest that some universities may not be good managers of the facilities and that their expenses could be pared down somewhat. That's the only area in which I see you arguing, that there could be some improvement made, but other than that I don't see where there is a need. It seems to me the protection is there with regard to the arrangements under which the university housing is provided.

**Mr. Miskin:** With regard to profits, yes. We don't believe there is excess profit by

university administrations in running residences, of course.

Mr. Williams: I don't think there's any profit, is there?

Mr. Miskin: Generally, there isn't.

Mr. Williams: What about the idea that was put forward by the Ontario University Students Federation, that they be subsidized entirely?

Mr. Miskin: With zero rent?

Mr. Williams: That's right, that it be provided free of charge to the students.

Mr. Miskin: My personal opinion—and that is all I can provide, because the Community and Legal Aid Services Program does not have an opinion on that—is that the problem of student costs should be taken care of outside of the situation of university residences. This would create a massive discrepancy between students in university residences and students outside of university residences. Residence spaces are extremely limited and it would be inequitable. Probably such concerns can be better taken care of through a decent student assistance program.

Mr. Acting Chairman: Did you say residence space was limited?

Mr. Williams: On-campus space; he felt there'd be an inequity that they would have free accommodation and those living off campus would have to pay rent somewhere. Isn't that the point you were making?

Mr. Acting Chairman: That's certainly not the case in London. It may be elsewhere. There are vacancies in London.

Mr. Duksza: A wonderful town.

Mr. Acting Chairman: You said it. I'll accept your comments as read.

Mr. Miskin: At York University we have approximately 150 Osgoode Hall law students on waiting lists for residences.

Mr. Epp: I have a few questions. Your point 2, conclusions: "The act should apply clearly and explicitly to rooming houses and bachelorettes." A lady indicated earlier this afternoon that she would prefer to see rooming houses and so forth under the same kinds of laws that govern hotel rooms and so forth. She was in the business. How do you react to that one?

Mr. Miskin: We would disagree with that. We see rooming houses, to a large extent, as long-term accommodation for a lot of people. It's not usually a stopping point. In many cases it is for people who will then go on to find apartments or other places. But for a lot of people rooming houses are permanent accommodation and these people are

generally among the lowest income levels and we feel that these people are particularly in need of the protection rent review can provide.

Mr. Epp: The other comment you made earlier, and Mr. Kennedy referred to it, is that after the post-rent review period, there would be astronomical increases, or something to that effect. I'm just wondering how you'd compare that to the AIB. The AIB is out of existence now and I don't see any lavish increases there. I'm just wondering what basis you would use—without getting your cue from Mr. Warner.

Mr. Warner: He wasn't getting his cue from me. He's quite able to defend himself—even against you.

Mr. Miskin: To my knowledge the Anti-Inflation Board still exists and is being terminated currently.

Mr. Duksza: Mr. Epp, you need some help on the committee as well.

Mr. Warner: Yes, the AIB is still in existence.

An hon. member: We're in a decontrol period.

Mr. Miskin: The anti-inflation program is being slowly phased out. We'll see what happens when it's ended.

Mr. Warner: It's still operating.

[6:00]

Mr. Epp: It is? Not lately.

Mr. Warner: The law is still in force.

Mr. Epp: Oh, yes, come on.

Mr. Warner: I don't think the committee has dealt with university residences before, but it deserves some attention.

Mr. Williams: We dealt with it in London.

Mr. Warner: Yes, but I'm talking in terms of the committee as a whole and the consultants' work. Part of the difficulty, as I understand it, is while the residences are set up as separate entities for the purposes of bookkeeping and assigning fees, without a proper audit the university may be able to include some operating costs of other portions of the university as residence expenses.

This was a problem at Carleton University in Ottawa in 1976, and it may be a problem at other universities. They've been excluded and there was an objection at the time.

I think it would be proper for the committee to at least take a look, through the consultants, at how we could include these residences in the rent review process, what kind of auditing system should be enforced, and how we should look at those costs. It



has been a problem at some campuses but not at all. I think it's worth taking a look at.

**Mr. Williams:** Don't tell me you missed that in your party position paper?

**Mr. Warner:** Was there something I missed?

**Mr. Acting Chairman:** There couldn't have been.

**Mr. Warner:** I didn't think so.

**Mr. Williams:** You're fired.

**Mr. Warner:** That's all I had to raise. It's a very good brief.

**Mr. Acting Chairman:** Thank you very much, Mr. Miskin. We appreciate your comments and while the committee might have been occasionally given to a bit of levity, it was not your brief that brought it about. It was merely the hour. They will, and we will, likely regain a certain amount of sanity as the evening drags on. Thank you.

**Mr. Makarchuk:** Don't bet on it.

**Mr. Miskin:** I'm fully aware of the unfortunate plight of this committee and I thank you very much for the amount of time and consideration you have given us.

**Mr. Acting Chairman:** I want you to know that we're accepting immediately recommendation 5, which is to have hearings in the evening. They're starting tonight. Thank you.

Could we now turn to Milvan Construction and Mr. Wright?

**Mr. Wright:** The Milvan brief deals strictly with rent control, for which we apologize. We're quite willing to just have it tabled.

**Mr. Acting Chairman:** I think the committee would be disappointed not to hear you but, by the same token, they're prepared to conceal their—

**Mr. Makarchuk:** Marvellous flip-flop, Mr. Chairman.

**Mr. Acting Chairman:** —they're prepared to conceal their disappointment, Mr. Wright. I'm sure they will probably take the brief you've presented now and read it with a lot more thoroughness than might otherwise have been the case.

The committee does have the brief. I believe it's been distributed. I think it's in your file there, Mr. Makarchuk. It was in every other one. We do have the benefit of that, Mr. Wright, and we will review it.

We are, as you appreciated, relating our questions entirely to that of landlord and tenant.

**Mr. Wright:** I would not have intended to read it to you. We came down, only in case there were any questions on the brief.

**Mr. Acting Chairman:** Thank you. You might tell us what you represent. Are you representing a firm?

**Mr. Wright:** We're a landlord and we are partners in about 400-odd suites in Toronto.

**Mr. Acting Chairman:** Where in Toronto?

**Mr. Wright:** 730 St. Clarens is one of them.

**Mr. Williams:** Mr. Wright, the first part of your brief deals with the personalities that make up the appeal boards. I gather that you or your company has had some bad experiences before the appeal boards. Do you indicate that a bias exists among some of the members on the boards? Or do you feel, because of the nature of the background of the appointees, that there is an obvious bias there that prevents a fair hearing?

**Mr. Wright:** No. I wouldn't level an accusation at any person we've appeared before. But I think the law, as it is written, insists that there be a bias, and we assume that every regulation coming out of it is biased strictly by the law. It's the only law I know of where an appeal board, from which you have no appeal to any other court, was designed by law as a biased board, that is, a neutral member and a non-neutral member. There is no representative of business; there is no representative of any landlord.

It's an old story, justice should appear to be done and not just be done. I've heard of boards where there is a neutral government member. I haven't heard of government boards where there is a neutral member plus a non-neutral member.

**Mr. Williams:** The concern you are expressing in your brief was I think, put by another person who appeared before the board last Wednesday who alleged that one of the members sitting on the appeal board, is an active member in a tenants' association and as such would not be an objective member of that board, and unless you opened it up to permit landlords to also be appointed—

**Mr. Wright:** The law is quite strict.

**Mr. Williams:** Just a minute. I'm asking a question, do you mind?

**Mr. Wright:** Go ahead.

**Mr. Williams:** The point was made, Mr. Wright, that it appeared that no landlords had an opportunity to sit on these boards, whereas we had a number of people who were actively involved in tenant associations sitting on the boards—

**Mr. Wright:** That's true.

**Mr. Williams:** —and thereby a bias was established. Could you comment further on that from your experience?



**Mr. Wright:** We've had marathon hearings, as the brief says, that have gone on for as much as 12 hours. And it's not a real court of law, where allegations have to be backed up by fact—except by the landlord, that is. You cannot help but feel that only a government-appointed judge, or a person who had been appointed by government for his neutrality, would have dealt reasonably with it.

Even if you got a fair hearing, you did not appear to get a fair hearing. You assumed you were not going to get a fair hearing. Even if we tried to look back and say objectively that justice might have been done, it's very difficult because it has to appear different.

**Mr. Williams:** Okay, which side would you prefer to be on—to have no one on a board who is involved either in tenant activities or in landlord activities, or that both parties be given an opportunity to serve on it? Which way would you prefer to go? That there be an exclusion of those people who would appear to have a vested interest one way or the other, or that both sides be given the opportunity to settle?

**Mr. Wright:** I think the act was designed so that no one having a vested interest should be on the board. If I'm correct, it was changed later, but our justice system with judges has done very well. I can't remember going before any court for a traffic ticket or anything else that had all the interested parties there throwing in their own causes. You had one man appointed by the government, a competent judge, whether he happened to live in an apartment or any place else.

**Mr. Makarchuk:** Do you mean there are no crown attorneys or policemen there?

**Mr. Williams:** All right. My last question is, would you be interested in seeing that the system is continued in some fashion, and an administrative tribunal set up so that the matter could be dealt with before that type of body, rather than going before, say, a divisional court to deal with appeals?

**Mr. Wright:** Do you mean if a body was set up headed by—

**Mr. Williams:** If a new administrative tribunal was set up whereby any appeals, rather than going before the courts, would be dealt with in a non-judicial way by a person who would bring equity and fair play into the decision.

**Mr. Wright:** With all due respect, if you could hear some of the rhetoric that goes on at these hearings—there's no judicial control, and I suspect that if you introduced a landlord's representative or an owner's representative, instead of being better it might

even be worse, because then you would be hearing rhetoric from two sides.

**Mr. Williams:** No, I'm sorry, I've left that matter aside—the one of vested interests. I am just wondering whether you had any views on this new concept that has been talked about of introducing administrative tribunals into any new system that might be set up as a replacement to the rent review process.

**Mr. Wright:** If they were objective persons without a bias either way, which I would assume them to be, then yes.

**Mr. Makarchuk:** You are saying we would find those in the Huronia centre for the retarded.

**Mr. Warner:** Mr. Chairman, before we continue, could we clear up a matter which I think is causing some misunderstanding? Can someone who has a copy of the rent review act, the section which talks about the appeal board, say whether it does not specify in there that one shall be appointed as a representative of the landlord and one shall be appointed as a representative of the tenant?

**Mr. Fram:** Not to my knowledge. We will check it.

**Mr. Makarchuk:** It is a government appointee.

**Mr. Gustavson:** A quorum of the board shall be one representative for tenants and a chairman.

**Mr. Warner:** Is that all it says in there?

**Mr. Gustavson:** It says that the number of members of the board shall be appointed by the Lieutenant Governor in Council. A quorum for any meeting of the board shall be a representative of tenants and a chairman.

**Mr. Williams:** That is the apparent bias that you are addressing yourself to. You shouldn't have asked the question, Mr. Warner. You got yourself in a deeper hole.

**Mr. Warner:** No. That is fairly clear.

**Mr. Williams:** Fairly clear is right. It is a clear bias there.

**Mr. Warner:** I think we have the exact wording. I was just interested in hearing the exact wording.

**Mr. Fram:** It says, "Two members of the board, one of whom shall be representative of tenants, constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the board and their decision on an application shall be the decision of the board."

That is the quorum provision. Section 12(1) says, "A board to be known as the Resi-

dential Premises Rent Review Board is established composed of such number of members as the Lieutenant Governor in Council may appoint and of the total number of members appointed, at least one half shall be persons representative of tenants." One half are tenants and the other are by the government.

**Mr. Warner:** The government's choice.

**Mr. Williams:** You are suggesting the act is obviously weighted in one direction?

**Mr. Warner:** With all those real estate agents? You've got to be kidding.

**Mr. Wright:** As objective as any government can be in attempting to appoint a single appointee, how long could he remain objective, if the other half of that board is biased by the intent of that law?

**Mr. Makarchuk:** Why do you say tenants are always biased and everybody else is not?

**Mr. Wright:** Why should they not be biased in their own favour?

**Mr. Makarchuk:** Why should not everybody else be biased?

**Mr. Wright:** But should Judge Bora Laskin be biased?

**Mr. Makarchuk:** Are you trying to tell me there are certain people in this world who do not have biases?

**Mr. Wright:** What judiciary is supposed to expose its biases, sir? That is really the content.

**Mr. Epp:** Mr. Chairman, the hour is getting late. We are supposed to be back here at 7 o'clock.

**Mr. Acting Chairman:** That is right. Mr. Epp, why don't you wrap us up with your final question? You had one, didn't you?

**Mr. Williams:** I was just going to say that I appreciate that that raises an interesting point with regard to the wording in the act. It is something the committee should address itself to, as to whether there is an unintended bias built into the existing legislation when we are considering new legislation.

**Mr. Fram:** Mr. Chairman, I would like to answer the question that was put relating to the Attorney General's department.

**Mr. Acting Chairman:** I am sorry. I thought you did.

**Mr. Fram:** There was a question relating to security of tenure and our monitoring of how that is operating.

**Mr. Acting Chairman:** Let's delay that until after the dinner hour. I know the kinds of questions that will invite. Mr. Wright, thank you for appearing before us. We have the benefit of your brief as I mentioned earlier. We have the benefit of some of the questions that have been posed to you. We appreciate your comments and we will make use of them. Thank you for appearing here before us.

**Mr. Wright:** I would like to make a comment about the last question. The thrust of the brief is the bias of that court, if it is a court, and, more important than all, if you take away the freedoms or the right to earn a living by an owner of a building or jeopardize the rights of an owner of a building, you are introducing the thin edge of the wedge to do that to anyone else you might want to pass a law against.

I don't want to go to extremes, but it can be racial, it can be economic or it can be anything. What is justice for an owner of a building is justice for any citizen.

The committee recessed at 6:15 p.m.

## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
 Campbell, M. (St. George L)  
 Charlton, B. (Hamilton Mountain NDP)  
 Dukszta, J. (Parkdale NDP)  
 Epp, H. (Waterloo North L)  
 Hall, R. (Lincoln L)  
 Kennedy, R. D. (Mississauga South PC)  
 Laughren, F. (Nickel Belt NDP)  
 Makarchuk, M. (Brantford NDP)  
 McCaffrey, B.; Chairman (Armourdale PC)  
 Rotenberg D. (Wilson Heights PC)  
 Samis, G. (Cornwall NDP)  
 Walker, G.; Acting Chairman (London South PC)  
 Warner, D. (Scarborough-Ellesmere NDP)  
 Williams, J. (Oriole PC)

### Witnesses:

Bellamy, D., Board Member, Ontario Welfare Council  
 Brady, D., Toronto Community Legal Assistance Services  
 Bryce, D., citizen (formerly with Toronto Community Legal Assistance Services)  
 Currie, J., Vice-President, London Property Management Association  
 Dobson, E., Toronto Community Legal Assistance Services  
 Forder, F., Director of Political Education and Public Affairs, Ontario Federation of Labour  
 Gathercole, R., Toronto Community Legal Assistance Services  
 Holzman, D., landlord (One-Crownhill Place, Etobicoke)  
 Kennedy, D., Co-ordinator of Research, Ontario Welfare Council  
 Lenkinski, L., Administrative Assistant, Ontario Federation of Labour  
 Patterson, J., Research Director, Social Planning Council of Metropolitan Toronto  
 Melnitzer, J. H., Legal Counsel, London Property Management Association  
 Miskin, M., Community and Legal Aid Services Program, Osgoode Hall Law School  
 Wright, S. M., Milvan Construction Limited

### From the Ministry of the Attorney General:

Fram, S. V., Counsel, Policy Development Division

### From the Ministry of Consumer and Commercial Relations:

Gustavson, J., Special Assistant to the Minister













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# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### **Second Session, 31st Parliament**

Wednesday, May 24, 1978

Evening Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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# LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 24, 1978

The committee resumed at 7:25 p.m.

## TENANT PROTECTION (continued)

**Mr. Chairman:** Ladies and gentlemen, we now have a representative from each of the three parties, and because we have a long list of important briefs to hear tonight we will begin.

To provide some very brief background for those who have not been here before: this standing committee of the Legislature has been set up to look at the two key parts of our challenge, the rent review portion and landlord and tenant. We have spent six weeks on rent review. This Wednesday and next Wednesday we hope to concern ourselves as much as possible with just landlord and tenant matters. The committee will report to the Legislature on or before June 15.

I would ask those who are here tonight and who are prepared to present briefs if they would respect the time. We, as a committee, have difficulty with that, because inevitable these are interesting briefs and we always have a lot of questions to ask. If you could try to restrict yourselves to 15 minutes during the formal part of the presentation, it would help a great deal. For our part, we on the committee will try to restrict our questions and keep them as brief as possible, because if we stick to the clock fairly rigidly we should complete by about 10:30. I think, in fairness to the other witnesses who are prepared to come later tonight, we should try to move along.

If we may then begin, I call on Mr. John McVea and his associate from the Cawthra-Mulock Tenants' Association. When you come up to the microphone, please identify yourselves and the group you are representing.

**Ms. Adams:** My name is Ellen Adams. I'm on the executive of the Cawthra-Mulock Tenants' Association. I will be presenting the first part of our brief and I will be followed by my colleague, John McVea, who is the president of the association and who will follow on.

**Mr. Chairman,** honourable members, fellow tenants, we represent the Cawthra-

Tenants' Association of 100 Gloucester Street and 105 Isabella Street, an area which the planners describe as south midtown, mixed low to middle-income dense residential neighbourhood.

We have come here tonight to tell you about our buildings and how rent review has affected the tenants in them, to give you our views on the green paper and to publicly state our support for the excellent brief presented to you by the Federation of Metro Tenants' Associations on April 19.

First, a brief note on the backgrounds of our buildings and their tenants. We have a considerable number of elderly people in them, some of whom have been in the buildings since they were built in the late 1950s. Most point out that the quality of management and maintenance began to get progressively worse after 1968, or seven years before rent review was even instituted. This was a mere 10 years after building completion. More younger people are entering the building nowadays. There is, naturally, in some 430-odd suites, a small but discernible leakage—in other words turnover—month by month, so in spite of the fact that there's only a vacancy rate of about one per cent, it means that tenant organization is never as tidy or as long-lasting as we would like it to be.

The premises at 100 Gloucester are on a 16-year leaseback rental arrangement by its management company, O'Shanter Development Company Limited, which has three other companies associated with it. This company apparently now owns 105 Isabella Street. One way or another, substantial sums have been paid and are being paid to Lehn-dorff (Canada) Limited, which is connected with a German company, Kommanditgesellschaft Lehn-dorff Vermoegensverwaltung GmbH.

We feel, in passing, that more professional assistance should be available to tenants and tenants' associations in the matter of landlord responsibility. It is sometimes difficult, as is well known, to establish ultimate responsibility as well as ascertaining ineligible financial transactions.

I'm going to move on to comments on the green paper. Although we do not pro-



pose to offer an exhaustive critique, we want to supplement the remarks made by the Federation of Metro Tenants' Associations in its brief with some of our own observations. A reading of the government green paper reveals a number of inconsistencies and, to our mind, questionable assumptions; some stated, some unstated.

[7:30]

Although the authors of the green paper have entitled it Policy Options for Continuing Tenant Protection, their main concern appears throughout to be the restoration of a situation whereby private investors, who are the chief suppliers of housing, could be permitted to make an adequate return on their investment.

We are going to limit our observations to the following few points which pick out some of these inconsistencies, and, I guess implicit in what we are doing here is the thought that if the foundations are shaky, well then the superstructure may be questionable as well.

It is stated that historically, the private sector has been the main supplier to the tune of 90 per cent or more of rental housing. This is page four of the green paper; in fact, page references which I will give are all from the green paper. The assumption is made that this reflects the beliefs of the majority of Ontario citizens in the primacy of private decisions, and a basic satisfaction with the standard so set. We disagree: there simply hasn't been any other choice.

Rent revenues, in a free market—and this is conventional wisdom—are governed by supply and demand, page nine. Now we would argue that the situation is not that of a free market: the demand is not elastic, we cannot switch to another product in place of rental housing and to that extent we are at the mercy of what landlords want to charge. Their concern is to make “an adequate return on investment,” that is a profit; otherwise, it is implied, no new rental building will be built.

The green paper states, and I quote: “If landlords do not have any incentive to supply and maintain rental units, tenants will suffer a decline in their housing conditions.” That's on page 33. The only incentive the authors appear to have in mind is the financial rate of return for the landlord. How much more does “adequate return on investment” imply compared with breaking even on overall costs—that is good management, upkeep, services and so on—and could this not be clarified through legislation?

I quote again: “Unfortunately, one man's financial viability can be another's affordability problem,” page 33. We take this to be an example of really muddle-headed thinking. It is not a question of good or bad fortune, it is a manifestation of a fundamental conflict of interest between landlords aiming to make a profit and tenants aiming to secure decent, affordable housing. The authors' aim here is for a solution by consensus; nowhere do they question whether or not the private sector is, indeed, responsible enough or competent to remain the chief supplier of housing.

There is an unstated assumption in the report, that landlords somehow deserve bailing out; that is, in cases of hardship, tenants may be helped by rent supplement programs and the like. This reveals a rather patronizing attitude towards those with rent affordability problems, namely that it is somehow their own fault that they cannot pay their rent. Rent supplement programs are Band Aid solutions; they do nothing to alter the basic situation, and like other handouts they foster an attitude of dependence rather than self-determination. So that is no real solution. You could put the shoe on the other foot and say that bailing out landlords is equally no solution.

According to the green paper, the “rent review legislation is not structured to consider the relation of an individual's rent in relation to income, but rather it was tied to the cost considerations of the landlord,” page 17. In other words, the government proposes to base its evaluation of the success or failure of rent review on how it affects the private market and that market's ability or willingness to supply housing, rather than on how it affects tenants. This, in spite of the ostensible aim of the green paper—namely tenant protection—and in spite of the authors' own admission that the woeful state of the rental market since the autumn of 1975 should not be attributed to the existence of rent review legislation.

The results of the rent review program during 1976 and 1977 indicate that the aim—that is, to restrain the rate of rent increase to justifiable costs—was achieved. However, an unstated assumption pervades the green paper, that is that there is something wrong with controls and that they ought to be got rid of as quickly as possible. In fact, three out of the four options offered are geared to this strategy. However, since a sharp impact would be unbearable and therefore may need to be avoided, the authors would allow a gradual easing of controls and a

phasing in of rate of return increases, so that the market would be allowed to adjust. In other words, if it happens slowly, it somehow becomes more bearable, as though slow belt tightening is any different from any other kind of belt tightening. Even the so-called "unconscionable rent increase" which the authors seem to wish to prevent, would still be judged, based on the proposed increases in rents, in relation to costs in the general market rather than in relation to the affordability for tenants.

Lastly, there is no attempt anywhere in the green paper to set as a priority the provision of decent, affordable housing and from there to start to devise ways of achieving this; for instance, by tackling the basic problems necessitating rent control in the first place. In other words, there seems to be an assumption that, as things as have been, so they shall remain and so back to the private sector and the so-called free market situation.

John will take over from here.

**Mr. McVea:** Mr. Chairman, members and ladies and gentlemen: First of all, I don't believe I can read quite that fast.

I want to go on to comment further and suggest that there be no mistake about another matter. After the cost of rent, the greatest single problem facing controlled-rent tenants is inadequate maintenance; and there is, in fact, very little redress. The bureaucratic maze a tenant must go through to be assured of heat, freedom from pests, trustworthy elevator service, painting, appliance repair and general upkeep (where these have not receded into legend) is so stupefying and stultifying that many simply give up and endure.

It is recognized in the introduction to the green paper (paragraph four) that tenants are interested not only in rents but also in the services, comforts and enjoyment that their rent is perceived to buy. Rent review hearings have, for the first time, given tenants a forum in which they can express their concerns about the rental accommodations in which they make their homes.

But maintenance problems, sporadic heat, security of person and tenure, and other items like proper ventilation, intercoms that work, and so on, do not come under the discretion of the rent review officer, or so we are told. Those are landlord and tenant matters. But costs of maintenance, when done, are not. They form part of rent review.

We think it is inequitable that we cannot voice complaints about even legally required service without being treated to dissertations by the landlord on the landlord's problems

and why he must spend so much to maintain just bare essentials. As a provider of an essential service, the landlord and his retinue are first at the table. His clients are seated in the outer darkness.

Why do people put up with present-day conditions? The reasons are numerous. Some tenants literally do not feel the pinch. Some go in fear lest a requested improvement raise their rent or might get them an eviction notice. Some recognize the difficult situation and are willing to compromise. And there are some landlords who are in all likelihood experiencing real difficulties but have a rapport which they share with their tenants.

Whatever the reasons, with a lead time of from six to seven years required to develop accommodation, it seems fatuous that the *Toronto Star*, March 27, 1978, page A6, reports the president of CMHC is predicting that rent controls are unnecessary whenever the vacancy rate is around three per cent, and decontrol is the answer. At the moment, one can only suggest that the millenium, contrary to chronology, or sectarian prophecy, is not just around the corner.

Furthermore, in the presentation to this committee by O'Shanter Developments Company, as reported in *Hansard* at page G-170, April 26, 1978, is the quote: "Characteristically enough, rent review in its press releases has cited the small percentage of landlords making application as proof that everybody was content and that the system was working." Moreover, the presentation maintains that "they (landlords) have come to doubt its (the government's) basic good faith . . . they have learned to stay away from rent review in droves"—and take their guideline percentage.

This may be so, and this association is certainly not attempting to impugn the government's good faith, but the Federation of Metro Tenants' Associations, while noting that landlords haven't been applying in greater numbers for rent review than might have been expected for economic reasons—brief presented April 19, 1978, pages eight and nine—suggests four specific reasons why this is so, and we think they're on the right track. The main assumption is that the landlord situation generally is not "really rough."

In point number two, page nine, the FMTA brief introduces the problem of certain landlords not being able to keep on top of the legislation; we agree, and would add tenants. In particular, because of the mobile nature of Canadians, people who have come from out of the province are desperate for accommodation and will sign a lease or a sublease



that appears reasonable, not realizing there is a built-in immediate increase in their unit.

We would suggest that, in addition to a central rent registry as proposed in the FMT brief, and a standard tenancy form, the latter include space for noting the previous rent, whether or not an appeal can be made and the date of the next projected increase, if one is contemplated. A simple supplement, typed on plain paper, but authenticated, would suffice. This implies that rent review will continue, of course, until at least the supply is closer to the affordable demand than it now is.

We would agree with the remark by the general manager of O'Shanter Development Company to this committee, Hansard G-8, page G-170, April 26, 1978, when he says that "There is no reason our tenants should be kept in the dark about costs that go to make up their rental dollar. They have a right to know it, and we landlords have a right that our tenants know." Except for the cost-revenue statements at rent review hearings, and then only in broad terms, do we get to know.

At the same time, in a recent rent review hearing, data from other property developments were offered for the private consultation of the rent review officer so that he could better make his decision. What of us? In effect, the company's major contention in this particular review appeared to be the effort to recoup losses suffered over a 10-year portion of a leaseback period running from 1968 to 1984, amounting to nearly \$320,000. That is one of our main concerns, that this kind of "recouping" might fall on tenants who are in no way responsible for the initial losses.

We have observed that in respect to the statement that the rent review officer need not adhere to the regulations, as noted in O'Shanter's presentation, page G-176, the Ontario Supreme Court found that "in those situations where it would not be equitable to do so, he,"—the reviewing officer—"ought not to follow it." It, of course, being the landlords' guide. Certainly we feel that this judicial decision should be reviewed and an extended act amended.

In the same issue of the Committee Proceedings, page G-159, we would heartily endorse several of the recommendations made by Ms. Colleen Swords, with regard to the Parkdale Community and Legal Services brief, namely:

1. That the financial loss and refinancing costs be deleted as part of the cost passed through to tenants in rent increases; and the reasons she adduces therefor.

2. A variable guideline, as suggested, set according to regional realities, might be

fairer than the blanket guideline now in effect. I might just comment here that the blanket guideline is a sort of thing that people consider as a minimum. When I went to query the rent review officer recently on this, I was told that it was the minimum. Projected costs would probably be closer to reality especially if cost of replacement of essential equipment cannot be passed through to the current crop of tenants. This is one of our comments on her suggestions.

3. Principal payment should not be part of the cost passed on to the tenants. That's discussed on page 13 of the Parkdale Community Services brief presented April 26. It's a contentious issue, we recognize, it's a difficult one; and we recommend a review of that particular brief which was dealt with in some detail and very capably in the Hansard copy I read, by this committee.

4. A system should be devised to eliminate gradually discrepancies in rent levels for identical apartments in the same buildings.

They've merely picked out several items that we think are of particular concern. In conclusion, may we say at this stage that we sympathize with the committee in their efforts to reconcile the many differences of opinion they must have heard by now, and that we are conscious of the overriding dilemma involved in creating an adequate supply of affordable housing to all Canadians.

Over the years, some of the best minds in the country have applied themselves to this problem. It was recognized in the 30s, when we believe CMHC was formed, but one fact seems certain. The free market—if we ever had one—has failed. So has the welfare state mix we have today. In fact, we have in the past decade, as we have in the 30s and earlier, developed an economy in which housing—if we may make the pun—is not the only structure out of joint.

Nonetheless, though we concede that the present system of rent controls and review is far from perfect, we would like to state several points clearly:

- (a) The present system—improved we hope—should remain indefinitely; at least, until satisfactory new legislation is in place, which in effect is saying when affordable housing is in place.

- (b) With regard to suggestions to solve the crisis in living accommodation, we do not feel we have at our disposal the time, the experts, the resources to suggest solutions to this committee. It is our hope that during an extended period of rent controls new opportunities will be developed to increase the present housing



stock and improve that which is being sadly impaired.

(c) We generally endorse the provisions of the FMTA brief, but would suggest it be looked at in the light of Ms. Colleen Swords' advocacy before the committee—April 26, 1978.

Another point, and I say this because of the fact that Mrs. Campbell is the representative for our riding, we feel that changes in rent control would certainly change the character of the neighbourhood, the downtown plan and the population mix. Changes are already starting.

I say that because I noted in her discussion she was puzzled by the changes occurring in the area and was at some loss to account for them. As tenants it is difficult for us to feel confident in a government which has produced a green paper so riddled with inconsistencies and, as we perceive them, faulty assumptions purporting to offer methods for continuing tenant protection but instead missing the point, sidestepping the issue and really only exploring ways of gradually getting rid of controls altogether. We want and need controls or hope you can come back with something better. The answer is not simple but the conditions that created the problems we are faced with are still with us. Thank you, gentlemen.

**Mr. Chairman:** Any questions?

**Mr. Makarchuk:** Just on the fact that your landlord is Lehnorff Investments, do you have any kind of information on that company? The reason I am asking is that I have a whole file trying to trace this octopus, if I may use that term, and it's been involved, in my opinion, in some transactions in which there were tax exemptions granted to it and I have been trying to collect the information. Do you have any details on the company outside of what has been mentioned?

**Mr. McVea:** Yes, in 1976—

**Mr. Makarchuk:** Then perhaps you could just present them later.

**Mr. McVea:** I wouldn't give details, I would just merely explain what they are.

**Mr. Makarchuk:** Yes, I see.

**Mr. McVea:** We had a search made of the then situation with regard to all the O'Shanter-related companies and Lehnorff (Canada) and the Lehnorff (Canada) pattern is being actively investigated now by one of the tenant-assisting organizations. We do have the terms of tenancy on 100 Gloucester by O'Shanter and the other companies with Lehnorff, which are very interesting, and which account in our estimation for the loss

position that the company claims over the previous 10 years.

The search needs to be updated. We have the search of the companies and we have all the mortgage arrangements from 1958 to 1968 for 100 Gloucester, and from 1958 to 1975 for Isabella.

**Mr. Makarchuk:** From the information that you have available, would you feel that perhaps some of the loss positions are actually paper losses and nothing else? Is it an effort, in this particular case, to more or less provide evidence for an increase in rents or something of that nature? Do you have any ideas on this?

**Mr. McVea:** First of all, I wouldn't want to be unfair. I am not an economist, accountant or statistician, but the study I have made of the material in our files and the discussions I have had lead me to believe that there are certain close relationships—they are fairly common in business—that lend themselves to a situation where it is likely that there may be payments made to companies owned in common.

**Mr. Makarchuk:** In other words, it's a loss for tax treatment?

**Mr. McVea:** Either tax treatment or profit purposes, or both.

**Mr. Warner:** In preparation of your case for the rent review procedure, I gather you have had to do a search and some other work. Do you think that is something the tenant should have to do, or should a commission or tribunal charged with the rent review and Landlord and Tenant Act to have the power to do the investigating and so inform the tenants?

**Mr. McVea:** I think the present system is inequitable. I was being a bit fanciful; I was using what I might call O'Shanter oratorical rotundities when I discussed the rent review program. I can see the humour in it. I am sure you can too.

But it does put a very great strain upon tenants. They have to go for help. We had to go for help to the federation which represented us. We have to learn a new vocabulary and a whole new way of thinking, whereas the landlord doesn't when he comes surrounded by his experts. I would agree wholeheartedly. I think we have made the point somewhere in the brief that tenants certainly need access to professional services. If we are going to do the job, we may as well do it properly.

**Mr. Warner:** I was wondering if you saw that that work could be done by a tenancy commission or whatever you want to call it,

and then inform the tenants, that they do the work rather than forcing the tenants to go through this procedure.

**Mr. McVea:** Let me put it this way; if I may. I think the tenant has an obligation to find out himself as much as he can. One of their problems is they don't know enough. They tend to think that somebody else will tell them, and they do, but they don't listen. I am perhaps being a little hard, but this is true of many things.

I believe this type of advocacy has been suggested already. I would say that both landlord and tenant, especially the smaller landlord, need advice and assistance beyond what is currently available. It is either that or you set up one of the tenant association groups with much more elaborate staff and more facilities to act, and the same for the landlord. I would be inclined to use a forum that represented both. I am speaking for myself at the moment on that point. My executive might not agree with me. They might think the adversary position was a fairer one in the long run.

**Mr. Chairman:** Mr. McVea and Ms. Adams, thank you very much.

**Mr. Bailey,** would you approach the microphone and identify yourself? I think everyone has the brief.

**Mr. Bailey:** May I say why I am here and who I am. I am a senior citizen. I live at 160 Chalkfarm Drive which is called the Jane Wilson Towers. I moved there a year ago because I am 74 years old and on a very reduced income.

The building had been advertised as being government-controlled rent and for senior citizens. When I entered I found the tenants in an uproar. They had just received word that they were to have a 23 per cent rent increase. They were lost about how to deal with the situation. They did have some help from the Metro Tenants' Associations, but they were confused in the situation.

I phoned Mr. Fred Young who is the member for this area. He said unfortunately there was nothing they could do about it because this building was not under rent control. I would have to approach the federal member. I approached Jim Fleming who was good enough to take an interest. Then we went from Jim Fleming to Prime Minister Trudeau and back through Ouellet. After a great deal of forcing, we were eventually allowed to meet with CMHC. The tenants came together with the landlords and their very highly specialized representatives to deal with these very ordinary tenants.

We found that there was nothing we could do at all, except hear a great many reasons why the rent had to be increased 23 per cent with no guarantee that it would not be increased another 23 per cent in the days to come. They were completely free. There was no input as far as the tenants were concerned. As a result I have written this letter, which you have, and I would like to read it for the benefit of the others here.

"This letter is to express a deep concern over the possibility of relaxing or relinquishing rent control in Ontario.

"From the enclosed brief"—and I have enclosed that which we sent to the government—"you will see I had the task of representing my fellow senior citizen tenants at 160 Chalkfarm Drive, Downsview in opposing a 23 per cent rent increase. All to no avail. This indicates that the loss of rent control will mean a field day for landlords and a massacre day for tenants"—and I say this rightly because pretty well all the tenants I represented last September have moved out. I expect to move out shortly too, I can't keep up at a 23 per cent rent increase.

"The law today provides maximum protection for landlords and a minimal one for tenants; for example rent control for older apartments. It would appear that property enjoys inalienable rights that people can never possess.

"It should be remembered that developers use public funds to the fullest extent in building, then press the tenants to fully subsidize the investment and then as landlords take the proceeds of public investments and the results of supply and demand in capital gains. Projects can double in value on the open market thereby giving millions of dollars in capital gains for a small personal outlay." And I will prove that fact in a moment or two. "These gains are rarely ploughed back into the construction of new rental housing.

"The government cannot control the factors in the open market but they can and should protect the tenants from undue and unwarranted exploitation."

This is the request. "Please retain, and where possible extend the use of, rent control to protect senior citizens and other worthy citizens of this community." That's the general tenor.

I want to go a little further. I made some investigation. This particular company received \$8.5 million from the federal government at 8 per cent when the prevailing rate was over 10 per cent. And they have maintained that low interest loan over the years.

Now the senior citizens have felt they can't stay there. They're moving out. And they're



naturally filling it up with other adults, working adults. \$8.5 million of public money supporting the private industry engaged in construction.

Naturally I understand that underneath the desire to relinquish or relax rent control is the thought that if we relax control it will mean greater profits for the landlords, more money will flow into more buildings, and this will mean a higher rental vacancy and a lower rent.

May I suggest, this is a flimsy hypothesis. If you read your weekend Star you will see that private money, at the present time, is flowing into luxury condominiums and luxury apartments, and office buildings. Remove rent control and you have no guarantee there will be any more money flowing into modest rental apartments.

Now you might well say, "What would you do to increase the supply of public housing that is modest rental housing"? And so I put in this other thought, and it's only a thought, because I believe ideas have legs and they can be transmitted to other people.

[8:00]

The thesis is whereas public money—and I'm thinking here particularly of CMHC, and you're not directly related to that but you are related to rent control—is now channelled through private developers to supply public housing, these same developers retain ownership which eventually can produce large capital gains from a small personal financial outlay.

Let me say, I know of a case with regard to this. In another city a friend of mine—who I shall not name—borrowed money from the government, just after the last war—and he was not involved in building up until that time—to set up 600 apartments which he now owns. He is now in the \$15 million capital investment. He has done marvelously, as so many private developers do with public money. I am suggesting that a new concept be evolved of supplying public housing which will permit co-operative building, ownership and management. I have some experience in this; I have tested it out. I am suggesting that public money be loaned at a lower interest rate—say, six per cent, and this is only a thesis—and that the government retain an equity—33 per cent instead of the market investment rate. Equity allows management and capital gain for the government, or at least for the public sector rather than the private. Then I have some suggestions about how this can be done. May I say that in building a building on one occasion, which was a very substantial building, we saved

\$20,000 on the estimated cost and one month in the actual building time by a co-operative effort where we met with management and with labour to push the thing through.

I believe public money should not be made available for luxury homes, apartments, condominiums, offices and other buildings at a substantial profit for the private sector. They are willing to go into this, and should be willing to go into it; it is a profit-making thing. But public housing at a modest rental is a must for any responsible community, and therefore is a public responsibility. I have suggested some other means by which the money could accrue—savings and loans associations, as in the United States, building societies, as in Great Britain, and make possible the provision of homes for private ownership. I believe that the provincial and federal governments could co-operate in the provision of homes for the general public, and also apartments and other places at modest rentals. This, ladies and gentlemen, concludes the thoughts I have on this subject and I am very happy to have had the privilege of appearing before you and representing the group of senior citizens in the apartment that I have the opportunity to live in for a little while.

**Mr. Chairman:** That was excellent. If you still have a church Reverend Bailey, you could even get—

**Mr. Bailey:** I have been retired for about seven years.

**Mr. Chairman:** I think it is a pity you don't because you could even get Makarchuk and I out.

**Mr. Bailey:** This is an interesting fact and it is one of the general facts that go into the situation. I worked 40 years in the church and my pension is exactly \$40.29 for that 40 years, apart from the old age pension and a lessened amount of Canada Pension, and a little savings; but this is fine. I represent many in the general public and I believe they ought to have a voice before a committee like this.

**Mr. Chairman:** May I ask one question? Your particular building was financed out of public money, a building that was to be a senior citizens residence?

**Mr. Bailey:** This was the statement advertised week after week in the paper—senior citizens housing. I believe I still have a copy of the actual address somewhere. Then they said we can't make it a senior citizens building, we will have to make it an adult building. But now it is an adult building and anybody can come.



**Mr. Chairman:** Okay, that is what I wanted to know.

**Mr. Bailey:** But the mortgage loan is still at the eight per cent, and I have a copy of the CMHC contract with that company which says, the borrower agrees to maintain the low-rental character of the project, otherwise he is committing a breach of the contract. A 23 per cent rent increase doesn't suggest that he is maintaining the low rental.

**Mr. Chairman:** That was an excellent presentation. Thank you very much. We are doing very well as far as time is concerned. Thank you, witnesses, and thank you, committee.

**Miss Caswell:** I am Jan Caswell. I represent the tenants' association at 286 Finch Avenue West.

**Mr. Chairman:** Is that in Armourdale?

**Miss Caswell:** You bet.

**Mr. Dukszta:** One more vote for rent review legislation.

**Miss Caswell:** We are affiliated with the Federation of Metro Tenants' Associations. Our building is comprised of 46 one-, two- and three-bedroom units. We formed our association on March 21, 1978, hoping that as a group we could get necessary repairs done to our building. We also wanted to inform ourselves of our rights as tenants.

We support the position of the Federation of Metro Tenants' Associations as presented in its brief on April 19, 1978. Decent, affordable housing is a fundamental human right. We, the tenants, elected you, our government, to represent us and act upon our needs and desires. We need good, affordable housing.

Rent review should be continued and strengthened. Out of seven tenants on the first floor of our building, three pay 30 per cent, one pays 45 per cent and two pay 50 per cent of their net incomes on rent. These people will face severe financial hardships if the controls are lifted. If landlords are losing money because expenditures are increasing at a rapid rate, then why have the number of landlord initiated applications resulting in hearings for rent increases above six per cent declined from 9,412 in 1976 to 5,145 in 1977?

In spite of rent review, our landlord has illegally raised rents. The rent on my apartment was raised six per cent January 15, 1977. When I moved in on December 1, 1977, the rent was again raised 12 per cent. This happened only 10½ months after the previous increase. There was no application submitted to rent review.

If our landlord cheats us under the existing laws, then what would he do if rent review was weakened or abolished altogether? In my view, because of his dishonesty in this matter, he has lost his credibility as an honest businessman. Our building has a high tenancy turnover. It is difficult for present tenants to know what rents are being paid by previous tenants. A compulsory rent registry would help to prevent illegal rent increases.

The landlord should not be able to include repair costs as an expense to qualify for an above-guideline rent increase, if he has allowed the building or various portions of the building to deteriorate. Our balconies are crumbling. Why should we have to pay for our landlord's negligence? Again, I state that we support the position of the Federation of Metro Tenants' Associations. Decent, affordable housing is a fundamental human right.

I have a couple of other things to say that don't necessarily reflect the views of our association. We have never been to a rent review hearing, so as a group we cannot comment on its procedures. Personally though, I feel that the formation of a housing tribunal as outlined in the brief of the Federation of Metro Tenants' Associations would be a good idea. It would decrease the backlog of cases to be presented to the county court and the small claims court, thereby cutting down the court costs. One department looking after all landlord-tenant matters would be more accessible to the parties involved. All records of applications and decisions pertaining to each apartment building would be in the same office, and not scattered all over the city.

With regard to shelter allowance as outlined on page 50 of Policy Options for Continuing Tenant Protection, I think that as a committee you should take into account the fact that certain money received by people on welfare is deducted from their cheques. Shelter allowance may not benefit them at all. There are thousands of people in Toronto on welfare.

**Mr. Makarchuk:** You were actually forced into paying what is an illegal rent.

**Miss Caswell:** I was.

**Mr. Makarchuk:** You have managed to sort that out? In other words, did you get the money back?

**Miss Caswell:** I deducted it from my rent.

**Mr. Makarchuk:** And then there were no problems?

**Miss Caswell:** No.

**Mr. Makarchuk:** I was concerned about that. I thought I'd get your MPP to help you out with the problem in case you hadn't. You did get your money back?

**Mr. Duktzta:** That's exactly the question I was going to raise. What about the others? Did the same happen to others in your apartment building?

**Miss Caswell:** We're still trying to get things together. We've only been an association for two months. I know that there is one apartment that only got a 60-day notice of rent increase instead of 90; but I can't get hold of the people because they moved. It makes it rather difficult, with everyone moving in and out to tell who paid what at what time. I figure if he raised my rent illegally, God knows how many other people he's done that to who have moved and weren't aware of their rights.

**Mr. Warner:** From your brief you talk about having all of the matters pertaining to rental housing being dealt with by one agency. This has been discussed quite often and some members have accepted that. Do you think it would make sense that in a situation where there is a serious repair maintenance problem in the building that the rental tribunal, or whatever you want to call it, should have the power to order the repairs to be done and that the rents should go directly to pay for the repairs. Should the rents be directed that way from the tenants and not go to the landlord? Does that make sense to you?

**Miss Caswell:** I think that a housing tribunal should have broad powers, including the power to order the landlord to make these repairs. It would save people having to run around to different places, plus going to or from court, which intimidates a lot of people. As for paying the rent money towards repairs and not to the landlord, if that meant that the cost of the repairs would not be included in a rent increase—

**Mr. Warner:** Yes.

**Miss Caswell:** —then that seems to make a lot more sense than what's happening now.

**Mr. Warner:** Is it in your particular building where there are some maintenance problems and yet the landlord has been able to claim some increase because of the maintenance to bring it up to a minimum standard? That's the general drift I got from your paper.

**Miss Caswell:** The problem is that the cement on our balconies is falling apart. Something like that does not happen in a year. If maintenance is kept up, then that's looked after. Repairing balconies costs a lot

of money. I'm afraid that we're going to have to pay for it, when I don't feel we should have had to.

**Mr. Warner:** It wouldn't make any sense that whatever it costs to repair the balcony should be a passthrough cost, since it's something to bring it up to a minimum standard. That was something I felt strongly about before. If you have minimum standards, the landlord surely is obligated to live up to them. If he has to spend money to accomplish that, that's his problem and that shouldn't be subsidized by the tenants. I just wanted to clear that.

**Mr. Duktzta:** We introduced that motion at the committee.

**Miss Caswell:** Do you agree with that?

**Mr. Warner:** I agree with exactly that. It hasn't been unanimously accepted.

**Mr. Duktzta:** No, it wasn't even debated.

**Mr. Warner:** We might vote on it now, however.

**Mr. Duktzta:** Since we have a majority of the committee.

**Mr. Makarchuk:** In terms of having some knowledge of the previous rents, would you feel that it would be embarrassing to the tenants if the rents that they are paying are accessible to the public? In other words it's not necessarily posted on the wall but it's available for anybody who wants to go and look at it.

**Miss Caswell:** What do you mean by "to the public"? Is that anyone in the building or anyone else?

**Mr. Makarchuk:** We could say either way. For anyone in the building or anyone who may wander in, somewhere there's a book kept which says apartment 305 pays such and such rent. Do you feel that would be embarrassing to the tenants in the building? Would they reject or resent this intrusion into their privacy or anything like that?

[8:15]

**Miss Caswell:** When I was trying to find out what percentage of their net income they were spending on rent, some of them didn't even want to tell me what rent they paid. We sent around questionnaires, and in the place where it said, "What is your present rent? What has your rent been for the past two years?" a lot of them left it blank. I don't know whether they were embarrassed or they just felt I was being nosy.

**Mr. Makarchuk:** You understand the reasoning behind this. If we are going to be able to ensure that you only get a six per cent increase, or whatever it is, then some



knowledge of the previous rents should be available; or there should be some rent registry where you can check on these things.

**Miss Caswell:** I understand that.

**Mr. Makarchuk:** There is a concern that it may be embarrassing for people to reveal how much rent they are paying.

**Miss Caswell:** I think a lot of people are afraid to say what rent they are paying because they feel it would be a form of weakness to let anyone else know that maybe the landlord, or someone else might take advantage of them. I have got that impression from talking to people. If they knew it was for their benefit, both in the long run and the short run, I am sure a lot of people would feel better about it.

**Mr. Chairman:** Thank you for your time and your comments. Mr. Paul Jones, North Jarvis Community Association.

**Mr. P. Jones:** Mr. Chairman, members of the standing committee on general government, and fellow tenants and residents.

I would like to start by saying "thank you very much" to the committee for having a special hearing tonight. I'd like you to know that you have thereby fulfilled the wishes of Mr. Davis, who two weeks ago finally got around to sending us a letter and a copy of the green paper inviting us to participate. If it hadn't been for the specially scheduled hearing that I heard about at the last minute, Premier Davis' wishes would not have been fulfilled. So really, thank you very much. I wish Mr. Davis had got this to us earlier.

I have been asked to speak to you on behalf of the North Jarvis Community Association. It is a group that is made up of residents of the area of Toronto bounded by Bloor, Bay, Carlton and Sherbourne Streets—roughly known as south midtown. Although our group, like the area, is composed primarily of tenants who will be sending, or have already sent their briefs through their respective tenants' associations—one of which you heard tonight—the community association also includes home owners and members of housing co-operatives who feel they have something special to say to you on housing policy as it affects all Ontarians—tenants and non-tenants alike. I should point out that I am not what I would consider a tenant. I live in a housing co-operative which is something quite different, and there are many others who are in a similar position in this area.

Rent review was introduced in 1975 in response to a housing crisis, as well as to complement the federal anti-inflation program. I was before the standing committee

that sat on Bills 20 and 26, and I remember what we discussed then. We talked primarily about a housing crisis, not about the federal legislation. It was a temporary program because simply controlling rent increases does not provide any sort of solution to the problem of providing decent, affordable housing as a basic right to all Ontarians.

We believe that one of the key long-term policies to replace rent review should be to make housing a basic right. However, what has been done in the last two and a half years? This government has failed in that interim to come up with a long-term housing policy to replace the bandage that rent review was intended to be.

Because of this failure, rent review will have to be extended once again. I really don't think you have an option. It was extended once before, in 1976, and we have to consider this now. Can the government come up with a policy to make decent, affordable housing a basic right, or must rent review be extended?

Part of the answer as to whether this government has, or is prepared to come up with a long-term housing policy should be found in the green paper on policy options for continuing tenant protection. But is it there? If it is there I couldn't find it. The thing is, the paper presents no major recommendations. Rather, it winds up by presenting a smashing 63 different options combinable in a seemingly infinite number of ways.

When I first got the thing I quickly opened it to find out, "What is the summary statement? Where are the end recommendations? What is the end product that tells me exactly which way the government wants to ride off in at this particular time?" Instead, I found a page that was simply covered with a variety of options which made it extremely difficult to focus discussion. It is like having a menu for a Chinese dinner for a housing policy. It is a bit of a farce.

The government should state clearly its recommendations for a housing policy. If there are no recommendations, what does the paper discuss? All the possible causes of the housing crisis? Rent review itself is just a bandage; really, we are talking about a housing crisis.

All the options available for a solution? In 1975, some of the factors considered as contributing to the housing crisis were, for example, the domination of the housing market by a few large firms, high interest rates and the switch from rental to condominium construction. Two of these, the policy paper does not even discuss. How can a paper



develop a long-term housing policy without fully examining the causes of the crisis that caused the rent review this paper is supposedly discussing?

It appears that the major premise of the paper is that rent controls are the limiting factor on rental housing production, and that removal of them will produce more housing. I think the point was made very clearly in an earlier brief that the housing market is not a normal supply-and-demand market; that there is a very inelastic demand curve. It is not essentially a free market. If you can't afford the house you are living in you have either got to find another one to pay the landlord's demand. You don't simply move out and choose another product. There isn't another product; you have to have a house.

The previous shortage was not caused by rent controls. I remember listening at the committee on Bills 20 and 26 to an agent of Crown Life Insurance, I believe. Somebody from the committee asked him, "When did you stop providing money to housing?" and he said, "A long time before you guys ever got down to the problem." Rent review was not the cause of the problem.

Possibly the cause was the domination of the market which has since increased; because bad times—and I think we have had bad times for some landlords—generally thin out the competition by high interest rates. You only have to read the newspapers to look at where the Canadian dollar is going and what is happening in return; what the government is doing to interest rates, which are now going back up.

Also, the switch to condominiums, especially luxury ones, is still fairly strong, as has already been pointed out tonight. We have a luxury condominium going up in our back yard. That's how we got built. We did a trade-off. We allowed 32 units of non-profit housing, and what we had to trade off was a couple of hundred units of luxury accommodation. It is a poor trade.

If rent controls were removed, what guarantee is there that the developers would put their profits into more housing? They didn't do it before; they are not going to do it now, I don't think.

What are our options? In North Jarvis we spent a considerable amount of time and effort trying to preserve housing in our community and in deciding what type of housing we would like to see preserved. From this experience we would like to make the following recommendations to you.

As I have said already, obviously you have to extend rent controls because you do not

have a policy to take the place of rent controls. I don't think there is an option. I think you have to examine some options, and I think you are going to have to produce a paper that is much better than the one that has been produced. It must be a paper that will make definite recommendations around which we can focus discussion; not 63 recommendations sending people off on a variety of different tracks.

One thing I have noticed about the briefs I have seen and heard is that they have tended to focus around certain points. One of them is that you have to extend rent review. I would like you to examine what we have found to be better ways of providing housing. They are: municipal nonprofits, such as exist in the city of Toronto; nonprofit co-operative housing, such as what I live in and which is slowly growing in Toronto; and basically devoting land to a medium density—instead of having a few living in low rise accommodation as we have in our neighbourhood, in luxury townhouses, or else having them crammed into highrise towers and trying to find a place for their kids—devoted to something more in the range of a minimum of 15 units per acre, going up to 30, and maybe topping off at 45 or 60 units per acre at the most.

Essentially, though, it is the responsibility of the government of Ontario to take these initiatives. When extending rent review, which is something I think is inevitable, changes should therefore be made as has been suggested in the Federation of Metro Tenants' Associations brief, from which I shamelessly stole these recommendations: to establish a registry of rents; to have one annual hearing for a building; for all information to be filed by the landlord at least two weeks in advance; and one of the greatest loopholes for raising a rent, refinancing on resale, should not be allowed as a factor in rent increases.

The Landlord and Tenant Act should be changed also to bring all housing matters under one jurisdiction, such as a rental court or tribunal, to limit regaining possession due to major repairs and renovations to instances where the repairs are required to conform to the housing standards bylaws, and to institute a standard lease form. We should also tighten the provision for regaining possession for the landlord's own use.

We do not feel—and I can speak of this in a way as a landlord, because I am on the board of directors of the co-operative, and I am responsible for the running of it—we do not feel that additional grounds for termination are needed in the Landlord and Tenant Act. Thank you.

**Mr. Warner:** I just have a couple of questions on point five. I understand the first section, "limit regaining possession due to major repairs." The second section is a bit unclear as to what the intent of that is: "and renovations to instances where the repairs are required to conform to the housing standards bylaws." You don't mean that where a place, through negligence, has ended up not meeting minimum standards, the landlord could then regain possession and bring it up to minimum standards?

**Mr. P. Jones:** I think here, actually that represents something that we have a particular problem with, where, for example, I can cite a couple of buildings in our area, 118-120 Isabella, both the tenants in those buildings are being evicted so that the landlord can regain possession for major repairs and renovations. The buildings are basically sound. The tenants don't have to be evicted to make them livable. What the landlord wants to do is to convert them into luxury accommodations and charge \$1,000 a month per unit. He wants to enlarge it and then make just a couple of flats per house, charge \$1,000 a month to a very wealthy client, perhaps who runs a professional business out of it, and evict four or five people who are living in what is basically good accommodation.

What is intended in this recommendation is that if the place has fallen apart so badly that you have to move people out, if your joists are rotten and you've got to take the floor up to put them in, and thereby preserve residential accommodation, then okay, he should be allowed to regain possession in order to do that. But simply regaining possession to convert a viable house to luxury accommodation is not something we'd recommend to preserve the character of our neighbourhood.

**Mr. Warner:** Yes. I appreciate the problem. Our difficulty is putting into law the wording that you've got here, for example, "provides a loophole for the landlord to allow the building to deteriorate to the point where he could evict the tenants and then make the necessary renovation and rent it out as a luxury unit." I just hope you can appreciate our problem in trying to make sure that those loopholes don't exist to accomplish the disastrous ends that you've described.

**Mr. P. Jones:** I'd like to comment on that, Mr. Chairman. I think what isn't in there—and I thought about where to put it, but it wasn't quite something that your government deals with at this point—is the housing standard bylaws. I think if all housing matters are brought under one jurisdiction, such as

a rental court or tribunal, including the housing standard bylaws, and they are enforced strictly, the situation that Mr. Warner is suggesting would not therefore occur, because in the first instance the housing standard bylaws prevent the landlord from using that to allow the houses to deteriorate.

[8:30]

**Mr. Warner:** I have just one other question with respect to nonprofit. I appreciate that you're in a nonprofit co-op. Do you have any knowledge of the ones run by the city, the Metro nonprofit housing?

**Mr. P. Jones:** I've never lived in them. I have been inside them and discussed them with people at various times.

**Mr. Warner:** I had a concern and I wondered if you could help at all, and that is that, while it's defined as nonprofit, and shouldn't rightly belong in the rent review, the nonprofit may apply to the entire stock of Metro housing but not project by project, so that one project may in fact show a profit and never be subject to scrutiny by the people who are living there. I just wondered if you had any knowledge that you could shed on the subject.

**Mr. P. Jones:** There is one project not very far from here, in fact, where such a thing did occur, where the city of Toronto went for rent increase, where the tenants had a very good organizer in there and they successfully requested copies of the financial statement, and where the financial statement was then passed on to a friend of mine, who analysed it, and we found that the rent increase was not justified, because of various methods done to put fat in a budget, such as, not taking the laundry revenue into account.

It's something we have done in our co-operative too. But it's for different reasons, I think. We do it with the knowledge of all the people there, and we're trying to allow for unforeseen expenditures. In this particular case it was done to raise rents.

The other one for those people was that they were, I believe, budgeting a building that was supposed to be a commercial building. I don't know all the facts of that one. But there is, I think, a need correctly expressed to put some type of control on that. Whether the correct one is rent review or not, I'm not sure.

**Mr. Warner:** Maybe it's something we'll have to address, and I don't have enough knowledge about the area. Some people raise concern that nonprofit housing should in fact come under rent review legislation because of the situation I've described. Others have



said that there should, instead, be a mechanism whereby an audit is done annually and made available to the people who are living there, so they can satisfy themselves as to what the situation is, and recourse could then be through the city council. I'm of two minds, and I don't know, that's why I asked the question.

**Mr. P. Jones:** A quick comment: when you are doing that, please remember to differentiate between the city of Toronto or municipal nonprofits and nonprofit housing co-operatives, where all rent increases have to be voted on by the general membership, which would ensure that that situation didn't occur.

**Mr. Warner:** Yes. I understand that.

**Mr. Makarchuk:** In your statement on housing you say that it is not essentially a free market? The HUDAC brief that we received said, more or less—in fact it was quite emphatic—that there is a free market. You also said that, in your opinion, “demand and supply” to use the economist term is inelastic. Their argument was that it was elastic and that tenants just want more room, or they would want to move to another apartment because there's more room and this would be continuous; they didn't say when it'll stop or whether it would go on ad infinitum.

But what makes you say that it's not essentially a free market and that supply and demand is inelastic? Try to make it brief, I realize the implications of the whole question.

**Mr. P. Jones:** Yes. I'm not an economist. However, I have played HUDAC's role in a way, in that I've developed housing co-operatives, and I've worked as a researcher for them in the market, and also for the Federation of Metro Tenants' Associations. The essential point is that I think it's very clear in the original. Going back to the hearing on the committee on Bills 20 and 26—there was a study done at that time, which, I believe, was presented to them by the federation—it showed that some tenants were paying up to 70 per cent of their rent for accommodation. I think somebody mentioned today that some of the people in their building were paying 40 and 50 per cent. I think this is a very good example of what's going on. You don't have an alternative to a house. When you are down to a limited space you can't move out.

I wrote a paper on this that said: “In Paris they banned the rich and poor alike from sleeping under bridges, but in Metro they don't. However, a bridge is still not a suitable alternative to a house. That essentially is the point. In Paris they have made it a controlled market; in that you are not allowed that alternative, it is not a free market. But

in Metro even though it is free in the sense that the bridges are there”—that was a joke—“it is not free because you have no alternative. The evidence, the amount that people are willing to pay for rent, is what I would cite as the best example of that.”

**Mr. Makarchuk:** In other words what you are getting at is the inelasticity—

**Mr. P. Jones:** Of demand.

**Mr. Makarchuk:** —is related directly to affordability.

**Mr. P. Jones:** The second one where they are saying about room size.

**Mr. Warner:** Say that again.

**Mr. Makarchuk:** It is inelastic because it is not affordable.

**Mr. Warner:** I like the inelasticity.

**Mr. P. Jones:** The room size one is not a function of, I think, a luxury demand so much as a breakdown in basic social structure within our community.

For example, I was in Thunder Bay looking at a nonprofit housing group there, and compared to Toronto they have a rather unique social structure where the majority of the population is considerably older, immigrant, and people who have not succeeded in going elsewhere. They have a very low person-to-room ratio in the area, not because the people are after luxury accommodations, but simply because they are single older people living by themselves. This is the last of the people who came over to build the town, to work in the mines, to work on the railroads, to work in forestry up there. They never settled and had roots.

I think this is the other side of the problem, not a demand for luxury, but a simple “I am alone now, and I would at least like my privacy” sort of feeling. I hope that answers your question.

**Mr. Chairman:** Mr. Jones, thank you very much. We are setting a bit of a record here tonight. I think we are exactly on target. It occurred to me that until Mr. Williams, the MPP for Oriole, just walked in, this was one of the rare times, ladies and gentlemen, you would see eight MPPs here on this committee and not one was a lawyer.

**Mr. Samis:** You don't know how lucky you have been.

**Mr. Chairman:** If we start to slow down—

**Mr. Makarchuk:** Why get into trouble now?

**Mr. Williams:** I am sorry to disappoint you, Mr. Chairman.

**Mr. Chairman:** Now if we slow down we will know why.



**Mr. Epp:** You are not sorry.

**Mr. Chairman:** The gentleman from Oshawa, Mr. Dobranowski. Will Mr. Wallis be joining you?

**Mr. Dobranowski:** No.

**Mr. Chairman:** If you would, for the record, identify yourself and the group you are representing.

**Mr. Dobranowski:** Mr. Chairman, honourable members, ladies and gentlemen. I am representing some people from Oshawa; Leon B. Wallis, Michael Zygocki, and about 15 people involved in one corporation owning 186 units. Altogether the corporation owns 764 units.

I have been sent here as their accountant, to appeal to the Ontario government to stop strangling free enterprise which has made Canada known around the world as one of the countries where the people live best, without any rent controls or restrictions. The people who have made this possible did so through hard work, and a belief in brick and mortar.

I remember when I came to Canada about 20 years ago bringing five children with me, unable to afford a comfortable apartment, we lived in one room and a kitchen, without asking for any handout from others. What I mean by handouts is this: Rent control may have been justified in some cases, as it was said it was needed to protect tenants from unscrupulous landlords. Who are these people? Why did the government freeze 15 per cent of the landlords' investment and pass the 15 per cent revenue on to tenants who in some cases may need it, but in many cases don't? Now 15 per cent of equity in each building is frozen. It is irrelevant whether the building is losing money or making money.

I have heard someone saying here that people are not going to rent control. I have been to a few of them and I can tell you honestly that in many instances it is nothing more than a kangaroo court. The landlord is guilty just because he is a landlord. People who have lived 15 or 20 years in a building, people who never have had quarrels with the landlord and who solved their problems, all along in order to justify their need for a cut in the rent, are suddenly running the place down. If you would listen to this, they would have you believe that the place is falling apart.

By the same token, if you talk outside with those people, they are the proudest people in the town that they live in such a good place. Where is the sense in this story? I have witnessed a case where a lady, claiming that she is living just on a pension, occu-

pied a two-bedroom apartment. Just because her son comes home from British Columbia once a year for a one-week visit, she needs a two-bedroom apartment. At whose cost? If it is subsidized, it is at the taxpayers' expense—in this case, the landlord.

The government is subsidizing quite a few rental accommodations in Ontario. We have a case in Lindsay where the government has permitted a charge of \$275 for a two-bedroom unit, subsidizing an additional \$100 a month for the first year, which brings the total revenue for the landlord to \$350. In the same place, 100 yards away, accommodation which is losing money has been frozen at \$230. Where should the \$120 come from, because the federal government is not going to subsidize something which is producing revenue? It has to be shown that the landlord is needing the money; otherwise the subsidy will be cut to a minimum or the landlord will be forced to return the rent to the tenant.

Looking into this situation, I believe that if rent control was needed, then it should have been designed in order to protect people but at the same time not to kill bona fide investors, people who have spent their lives working, and saving and putting something by in order that all of us could benefit.

Some of my clients are going bankrupt. I have furnished a copy of the financial statement wherein during 12 months 186 units have brought a \$93,000 loss, not counting the \$740,000 that those investors, 15 people who lived, worked and were born in Oshawa, put into it and didn't get one cent out of.

Where is the justice? How long can this go on and where is it going to end? We have heard that these two and a half years have brought absolutely no improvement to the markets, to the supply. It is actually worsening. I believe if anybody would come to me and ask me as an accountant if this is a good investment, I would say it is economical suicide to invest in a building or any rental enterprise.

In view of this, I ask myself, who is actually the sucker in this case, as people are saying, the tenants or the people who are living in their own place? A modest home costs around \$50,000. There is 10 per cent interest which nobody can get any more because it costs 11 or 12 per cent. That's roughly \$5,000 a year. Tax, heating and hydro cost over \$2,000. In addition, a man has to work like a horse to keep the place clean in winter and in summer, painting and so forth. It costs him around \$8,000 to live in a three-bedroom house.

The tenant doesn't have to worry about anything. He calls when a fuse burns. He pays around \$3,600 if he pays for a three-bedroom apartment. I'm talking about Oshawa or Lindsay or Peterborough where my clients have their properties. Anybody who has some sense would sell his home for \$50,000, \$60,000, or \$70,000, as many older people do. You can hardly blame them. They could invest the money at 12, 13 or 14 per cent and use one quarter of the money to pay the landlord who is called a shark because according to the law he's bleeding the tenants. They could spend \$5,000 in Florida during wintertime. I understand that would be a wise thing to do.

Many people are still living in a free enterprise system and are proud to have something. That's why they are here and have their homes. That's why they are still holding on to the buildings.

[8:45]

This may not be so simple any more because it is a paradoxical situation. For an identical new building, the replacement cost today is about \$27,000 to \$28,000 in Oshawa, Lindsay or Peterborough. Nobody would buy the building now, which is five years old, for \$18,000. The joint venture, with their large losses, if they wanted to sell, they would have to get bidding of about \$700,000 in order to dispose of the property.

So, as you can see, the matter is very serious. We know very well from the statistics that for Ontario Housing to run property costs no less. It can only cost more to run public property than the private landlords are paying. The statistics are not in my hand, but the committee for sure has access to them. You can see that the rentals which have been charged in our case here are not enough to cover the bare expenses.

We have been to rent control in 1976. According to the law we should have got the provisions not to have any losses. But as you can see the firm has lost \$93,000. And that is no way to do anything. So I would beg, on behalf of my clients and many people who are not able to be here and speak to you, that the government look into this. Don't let those people go down the drain, because it would mean a big loss for the province.

Ladies and gentlemen, I would ask also that the Landlord and Tenant Act be brought up to date. From the present act we can see in the first part what rights the tenants have, and in the second part what the landlord cannot do. This brings the situation to the point that sometimes it takes months to get

the bad people out. You have very few. I can tell you from experience. Out of 764 apartments maybe two per cent are causing problems. The other 98 per cent are good people who are proud of the place they are living in. They are good co-operative people. But it is enough that two per cent of them are around. You have enough trouble and enough work to spend thousands of dollars for law fees and lawyers and repairing the damages which the people are causing to the building.

As suggested, those people have to be congratulated who prepared the red book. They know their business. It is just too bad that the government didn't make anything out of that before that. We are still waiting, because this book shows that there are people in the government ranks who know what is going around. For the good of everybody in Ontario, I ask you, ladies and gentlemen, to make a proper judgement so that we all can benefit out of it. Thank you very much.

**Mr. Chairman:** Thank you very much. If you would stay for a moment please, Mr. Williams has a question, and Mr. Samis.

**Mr. Williams:** Mr. Dobranowski, you are in favour of an administrative tribunal being set up to administer the Landlord and Tenant Act rather than going through the present court structure, is that right?

**Mr. Dobranowski:** That's right.

**Mr. Williams:** Would you also be in favour, if the program of rent review is continued in some fashion, of this administrative tribunal attending not only to the matters of rents, but also all of the other matters under landlord and tenant handled by one body?

**Mr. Dobranowski:** Yes, as long as the tribunals will be having staff which will know the business they are talking about.

**Mr. Williams:** Yes. You mentioned that you went to rent review on behalf of your client, I presume—

**Mr. Dobranowski:** Yes.

**Mr. Williams:** —Caramba Investments, in 1976?

**Mr. Dobranowski:** Yes.

**Mr. Williams:** At which time, I guess you showed a profit of \$200, was that right? At the end of 1976? Could you indicate to the committee what happened when you went before rent review in 1976? If your client was experiencing such a heavy loss in 1977, why did he not feel it necessary to make some adjustment to his rents to try to recover from a net loss operation?



**Mr. Dobranowski:** All that have made statements have indicated the various increases but the rent review officer found we were too pessimistic. They didn't realize that inflation was going to go as far as it did.

**Mr. Williams:** What was the adjustment you were looking for in 1976?

**Mr. Dobranowski:** We were cut in about half of what we were asking.

**Mr. Williams:** What were you asking at that time?

**Mr. Dobranowski:** We had asked \$275 for two-bedrooms.

**Mr. Williams:** What was the percentage increase, I mean?

**Mr. Dobranowski:** It is difficult to say exactly what the percentage was. In some instances each floor of the building, previous to the rent control, had been \$1 more per unit. When rent control came, the shareholders decided to make the rents equal, so it may have been about 15 or 17 or 18 per cent for the upper floor, or it may have been 25 for the first or the second floor, where the rent was already different to begin with.

**Mr. Williams:** Your client didn't make any appeal in 1977?

**Mr. Dobranowski:** There wasn't much sense in appealing. I don't know of any case where an appeal has brought any help.

**Mr. Williams:** Have you had much turnover in the tenants in your building?

**Mr. Dobranowski:** Yes, but I would not consider it abnormal.

**Mr. Williams:** Are your rents consistent with the rents in the area?

**Mr. Dobranowski:** Yes.

**Mr. Samis:** Just a couple of questions. I would like to get back to the point Mr. Williams raised that you are very critical of the whole rent review process. Surely you can give us some idea of what sort of general percentage increase you got for, say, your Lindsay apartments, or your Peterborough units? You are in business: you must know what you got.

**Mr. Dobranowski:** We got about eight per cent the first time in Peterborough. We got about nine per cent or a little over eight in Lindsay. We got six per cent in some cases—6.7, for example, last time after the eight per cent was cut. In some instances we have got 15 per cent and in some instances we got 13 per cent, 11 per cent, depending on the building and depending on the losses.

**Mr. Samis:** The reason I ask is that in 1977 the provincial average increase, I'm sorry I don't have the figures, I don't know if the red book has them for Oshawa, but the provincial average was 12.5. You conjure up an image that rent review had been so destructive to the private enterprise system and yet there is a 12.5 per cent average increase and the inflation rate is eight per cent. I have some reservation as to how damaging or how dangerous it has been to the free enterprise system, as you describe it.

**Mr. Dobranowski:** It definitely is, because it is scaring people away. First of all, it is cutting out the possibility of getting 15 per cent on the equity. Any Joe on the street can put his \$500 in the bank on a long-term deposit and get six per cent. If he has \$1,000 he can buy Canada Savings bonds and get nine per cent for it. Why do those people have to be penalized? They are not necessarily the richer people.

If the government has the power to do so, why not freeze mortgage, why not freeze everything? That would be the answer, I believe. Let everybody then give 15 per cent of their equity for the benefit of others. If we do charity, why not all—why just a few people? Why do those people have to pay a penalty?

**Mr. Samis:** I assume your free enterpriser would never support that in the first place, though.

**Mr. Dobranowski:** We have not been asked to start it.

**Mr. Samis:** You were very critical of the rent review officers and the board and you used the expression "kangaroo court." Either you are paranoid or you have some very concrete evidence that landlords are getting shafted. Can you give us an example?

**Mr. Dobranowski:** Yes, you can ask for the minutes of the hearings from Oshawa or from Peterborough and you can obtain them.

**Mr. Samis:** We get people in here—some tenants have been very critical of the rent review officers, some landlords have. The impression I think many of us have is that they are inexperienced and possibly inconsistent but I would like you to document the idea that it is a kangaroo court.

**Mr. Dobranowski:** Yes.

**Mr. Samis:** What sort of evidence would you supply us to show that, in your experience, it's been a kangaroo-court situation?

**Mr. Dobranowski:** Low-income tenants come with complaints they can't support. They say this or that is not right or they would like to have this or that; or that the



landlords are just too greedy and that's why they want the increase.

**Mr. Samis:** I assume you are not silent at the hearings. I assume if you want an increase, you can document why you want that increase.

**Mr. Dobranowski:** I would supply the documents before that.

**Mr. Samis:** Why would you worry about a kangaroo-court situation if you have what you consider substantial documents to show your cause?

**Mr. Dobranowski:** If the chairman allows me to be frank, I will tell you, sir. A few weeks ago we saw the Holocaust film. People say: "How is it possible that the Nazis took millions of people, without saying anything, to the death chambers?" This is what is going to happen to the landlords, to our free enterprise, if somebody doesn't speak up. This is exactly what is going to happen.

**Mr. Samis:** Are you serious?

**Mr. Dobranowski:** Yes, I am serious.

**Mr. Samis:** I really find that hard to take. I think the analogy is ridiculous. I would point out to you that the people who brought in rent review in Ontario were members of a party who continually tell us in the opposition how deeply committed they are to free enterprise. The people who brought in wage and price controls at the federal level are supported very strongly by big business in this society of ours. I really find that one impossible to take.

You provide us with your financial statement for 1977. Could you give us some idea of your situation in 1974-75?

**Mr. Dobranowski:** If it is necessary, I can.

**Mr. Samis:** Not a breakdown. Just the bottom line.

**Mr. Dobranowski:** I don't have it with me now. I didn't expect that.

**Mr. Samis:** Can you give us a general idea how your corporation has been doing?

**Mr. Dobranowski:** We have not been losing money. We have not been making money but we are not losing money.

**Mr. Chairman:** Excuse me for a moment, Mr. Samis and ladies and gentlemen. We on the committee have had an opportunity now for seven weeks to hear representation from those people, tenants and others, who have a very real stake in the outcome of this committee's hearing. I know that I can speak for everybody on the committee when I say that we have, in our hearings in Toronto and outside of this city, extended every courtesy to virtually everyone who has appeared be-

fore us and will continue to do so. This gentleman is not in good company in that he is the only landlord spokesman here this evening. That's all the more reason I think for us to be courteous. Thank you.

**Mr. Williams:** Well said.

**Mr. Samis:** May I ask you that final question again, sir, about your situation in 1974-75?

**Mr. Dobranowski:** The companies didn't make much money but they have not been losing money the way they are doing now.

**Mr. Chairman:** I think Mr. Kennedy was first and then Mr. Rotenberg.

**Mr. Rotenberg:** I just want to clarify a point because Mr. Samis said earlier tonight that the average rental increase in Ontario was 12 per cent.

**Mr. Samis:** Twelve point five per cent.

**Mr. Rotenberg:** Is that of all rental increases or just those that went to rent review?

**Mr. Samis:** Obviously, those that went to rent review.

**Mr. Rotenberg:** So in other words all those who took six per cent are not included in that average figure?

**Mr. Samis:** We are getting the figures from the rent review officers, of the cases that appear before them.

**Mr. Rotenberg:** So those who went to rent review got 12 per cent. That isn't the average of all rent increases in the province?

**Mr. Samis:** No. We are saying the cases that appeared before rent review.

**Mr. Rotenberg:** Fine. Because I thought you had said the average rent increase in the province was 12.5 per cent. Only those who went to rent review were 12.5 per cent. Those who didn't go to rent review would probably have been six per cent.

**Mr. Epp:** I think the record will show that only five per cent of people go to rent review.

**Mr. Samis:** I would put on no percentage whatsoever in some small communities because some people never go to rent review. That's true. I agree with possibly a six per cent figure but there are others who would be in excess of the allotted percentage, but because of the situation they jack it up anyway—and the tenants never go either.

**Mr. Rotenberg:** I'm not trying to be argumentative, Mr. Chairman. I wonder if the consultants would be able to get some handle on what the average rent increase was in the province last year and the year before. It's probably a difficult thing to do.

**Mr. Samis:** It's in the green paper.

Mr. Rotenberg: Not all rents.

Mr. Samis: No, the ones that have appeared.

Mr. Rotenberg: Yes, but I am talking about all rents because, with respect, I think it's a little bit unfair to say the average rent increase was such a percentage when we are only dealing with five per cent of the province. I would like to know what the average increase in the province was of all rentals whether they went to rent review or didn't, if that's a figure that is obtainable.

Mrs. Campbell: Mr. Chairman, if we are getting that information I would like to have the information on those rent increases which have been beyond that figure.

Mr. Chairman: Beyond 12.5 per cent?

Mrs. Campbell: Yes. And, if it is possible, to find out those that have been done without going to rent review but are still, in my view, obviously illegal increases. I think we need the whole picture.

[9:00]

Mr. Rotenberg: I am trying to get the whole picture and, with respect, I'd like to get the whole picture. I appreciate what you have said, and I would certainly add that to my request.

Mr. Warner: Mr. Chairman, I am not sure how the consultant is going to be able to do that—

Mrs. Campbell: I don't know either.

Mr. Warner: —but there's a couple of other factors involved in that. One is, what happened in the appeal cases? While the increase may be established through the regular review process, the appeal case may have overturned it; it may have increased it, decreased it or whatever. In addition, on the ones that are within the guidelines and therefore not applicable—they may have been six per cent or zero—there is not going to be any recording of those.

An hon. member: Yes, there is.

Mr. Warner: Where is it recorded? It is not going to be recorded anywhere.

Mrs. Campbell: There may be some evidence. If they can't do it, they can't do it.

Mr. Warner: Well, good luck.

Mr. Kennedy: There should be a statistical figure somewhere along the line. You could check into that with HUDAC perhaps.

How many units do you have?

Mr. Dobranowski: Seven hundred and sixty-four.

Mr. Kennedy: What's your vacancy rate?

Mr. Dobranowski: The average would be about one per cent.

Mr. Kennedy: As I glance at your statement here, you had an increase in revenue, 1977 over 1976, of some three and a half per cent, with one per cent vacancy in 764 units.

Mr. Dobranowski: As far as the vacancy is concerned, I am talking generally about all the buildings. This building has 186 units only.

Mr. Kennedy: Is this only one building you are speaking of?

Mr. Dobranowski: Yes, that's right.

Mr. Kennedy: Could you explain why the increase in revenue between 1976 and 1977 is some three and a half per cent?

Mr. Dobranowski: Because that is how much was granted.

Mr. Kennedy: What is the vacancy rate in that specific building?

Mr. Dobranowski: In that building it has been maybe three or 3.5 per cent.

Mr. Kennedy: Why is your increase only 3.5 per cent? Could you explain that? It's \$18,000, 1977 over 1976, and by my math—that's the old math—it's 3.5 per cent.

Mr. Dobranowski: That's how it has—

Mr. Kennedy: Why didn't you ask for six per cent or eight per cent, as the case may be?

Mr. Dobranowski: We have been to the rent control, and we have received an increase. That's what it brought up.

Mr. Kennedy: An increase of \$18,000 in total, to me, comes out to about 3.5 per cent. That's the way the figures are; so there it is.

Just one other item: Under general maintenance you show a real escalation, from \$22,000-plus to \$64,000, or a \$42,000 increase; and we are speaking of a \$91,000 deficit in this one unit, which would imply that you would need a 22 per cent hike to come out even. You have one item that went up well over double, from \$22,000 to \$64,000, under the heading general maintenance. Was there some capital involved in this?

Mr. Dobranowski: No, definitely not capital.

Mr. Kennedy: Well, it must be a pretty good building you have.

Mr. Dobranowski: The building is about eight years old. It had to be sealed. The ceiling had to be done because it was starting to leak in some places. General maintenance has brought that up. This statement is not audited by me but by the office of chartered accountants.

Mr. Kennedy: But there are certain things that seem a bit extreme and probably the



suggestion of some explanation is quite warranted.

**Mr. Dobranowski:** Yes, definitely.

**Mr. Kennedy:** Could you comment whether you have some multiyear leases which you couldn't change within this two-year period of which you're speaking?

**Mr. Dobranowski:** No, there were none. No multiyear, just yearly leases.

**Mr. Kennedy:** I don't understand when, according to your own statement, in the two years you need a 22 per cent hike to stay even, your revenue increase is only three and a half per cent, and you have this huge item of general maintenance going from 22 to 64 per cent charged off in one year.

**Mr. Dobranowski:** Let's say we had three per cent vacancies. In this particular case, that would bring about a six and a half per cent increase, what the law would allow us to have.

**Mr. Kennedy:** Provided that three per cent of the tenants left all at once. Yes, that would, I presume, account for it. If the others went up and some left and you couldn't rerent. What's the vacancy rate in Oshawa?

**Mr. Dobranowski:** At the present time, according to Central Mortgage and Housing Corporation figures, it's over three per cent.

**Mr. Kennedy:** CMHC?

**Mr. Dobranowski:** According to CMHC figures.

**Mrs. Campbell:** CMHC again.

**Mr. Epp:** You obviously have a better hold on the handle than CMHC. All of us know that those aren't accurate figures. To the best of your knowledge, aside from CMHC, what is it?

**Mr. Dobranowski:** In this particular case, two buildings—one 64 units, the other 95 units—have absolutely no vacancies, one building has a two per cent vacancy rate, another building has about an eight per cent vacancy rate. These are buildings in Oshawa.

**Mr. Epp:** Let me just ask one more supplementary, and I'll be finished. You're in the profession. You've got 764 units. What's the vacancy rate in Oshawa?

**Mr. Dobranowski:** Two per cent, I would say, as far as the average in our case is concerned.

**Mr. Epp:** From the talk around among the landlords, that's what you conceive it to be.

**Mr. Dobranowski:** That's right. That's what I would say. The CMHC figures are different. I don't know what they take into consideration in their calculations.

**Mr. Kennedy:** Just one other thing here, your utilities go from \$50,000 to \$108,000. I know they're up, but this is 60 per cent or so.

**Mr. Dobranowski:** They were paid definitely, sir. There's no question about that.

**Mr. Kennedy:** Wages went from \$18,000 to \$29,000 in one year for 180 suites.

**Mr. Dobranowski:** The supers and the manager, that's all there is on payroll.

**Mr. Kennedy:** It's just a little difficult to see the rapid escalation of those several costs, and I don't know whether we might have some supplementary information to explain some of these things. Certainly it's difficult to take the example you've provided here or the situation you've provided and attach the credibility to it, with all respect, that I would like to do so.

**Mr. Dobranowski:** By all means, whatever the committee demands we are ready to supply.

**Mr. Kennedy:** Would you comment to the committee on those three items and perhaps, as Mr. Samis mentioned, an earlier statement, say, 1974? Would you mind providing that to the committee?

**Mr. Dobranowski:** I only know for a fact that those figures which are on the statement have been paid.

**Mr. Kennedy:** Sure.

**Mr. Dobranowski:** I don't have too much to do with spending the money. The only thing I do is verify the vouchers once they are in the office. The figures which are here are audited by a public chartered accountant and they are the true picture of the situation.

**Mr. Kennedy:** If you feel as though you might be able to clarify them, would you—

**Mr. Dobranowski:** No, I cannot in detail. Maintenance is maintenance.

**Mr. Kennedy:** That's all, Mr. Chairman.

**Mr. Makarchuk:** On your maintenance, in 1977 your maintenance costs are \$3,400 per apartment and in 1976 they're \$1,300 per apartment. Did the income tax people question you on that?

**Mr. Dobranowski:** What do the income tax people have to do with this?

**Mr. Makarchuk:** All right, then, do you consider that, as a landlord, to be a fair expenditure on maintenance?

**Mr. Dobranowski:** If it is a must, it is a must. If the boiler breaks down, you have no heat, and with 93 families living in the building there isn't much choice. You have to call the people and pay the \$20,000 or whatever it is to fix it.



Mr. Makarchuk: And it's an eight-year-old building.

(Mr. Dobranowski: That's right.

Mr. Makarchuk: And your expenditures, in other words, amount to \$3,000 per unit for maintenance?

Mr. Dobranowski: That—

Mr. Makarchuk: More than \$3,400 per unit.

Mr. Dobranowski: One hundred and eighty-six units we are talking about.

Mr. Makarchuk: I'm sorry, it's the new math—\$300. That's not discounting on your mortgages: you've got a first, second and third mortgage. Was this on the building when you purchased it?

Mr. Dobranowski: That's right.

Mr. Makarchuk: They aren't mortgages that were applied to the building afterwards?

Mr. Dobranowski: I beg your pardon?

Mr. Makarchuk: These weren't mortgages that were put on the building after you purchased that building?

Mr. Dobranowski: When the building was purchased, there were two mortgages on the building, except \$95,000 on each building which was taken additionally.

Mr. Makarchuk: I see. Now the figures you give us here, the Caramba Investments Limited figures, are strictly for the 186 units?

Mr. Dobranowski: Exactly.

Mr. Makarchuk: Now the other units that you have are not included anywhere else?

Mr. Dobranowski: No.

Mr. Makarchuk: It's a different company altogether, then?

Mr. Dobranowski: That's right.

Mr. Makarchuk: I see. What equity did you acquire in terms of the property, in value of the property?

Mr. Dobranowski: Seven hundred and forty thousand dollars.

Mr. Makarchuk: That was your down payment?

Mr. Dobranowski: Yes.

Mr. Makarchuk: That's right. Now, in terms when you're making your payments a month, you've increased your equity in the building to a certain extent.

Mr. Dobranowski: Yes, about—

Mr. Makarchuk: You've reduced your principal by how much?

Mr. Dobranowski: About \$30,000 a year, but this is not reflected in the \$91,000, this is a financial loss, not a cash-flow loss.

Mr. Makarchuk: Right, but if your mortgage interest has dropped, in other words, there must be a decrease in the principal, then?

Mr. Dobranowski: Yes, that's right.

Mr. Makarchuk: How much?

Mr. Dobranowski: About \$30,000 a year.

Mr. Makarchuk: I see. That was your decrease, \$30,000.

Mr. Dobranowski: Exactly.

(Mr. Makarchuk: How much did the building appreciate by?

Mr. Dobranowski: At the latest reports, if the shareholders were to sell the building, they would lose \$3,000 per unit, in order to dispose of it.

Mr. Makarchuk: Okay, that's all.

Mr. Chairman: Mrs. Campbell had a supplementary, is that all right? I think it was on the mortgage.

Mrs. Campbell: Well, it isn't on the mortgage, it was following what Mr. Makarchuk was questioning.

This then is not a true picture of your entire corporate structure. You have a different corporate structure for some of the other suites. How many corporate structures are involved in the 764 units?

Mr. Dobranowski: Five.

Mrs. Campbell: Five corporations. When I came in—and I apologize, I was late—you were saying that the tenants were making some irrelevant statements at the board. How much advance notice did they have of these figures?

Mr. Dobranowski: According to the law, they are getting 90 days' notice and 60 days' notice.

Mrs. Campbell: No, I mean of the actual figures that you presented at the hearing, the statement—

Mr. Dobranowski: I believe at least two weeks before.

Mrs. Campbell: Are you saying to us that these are totally unrelated to any of the other figures reflected in any of your other corporate structures?

Mr. Dobranowski: The same statement that you have?

Mrs. Campbell: Yes.

Mr. Dobranowski: That's right, it's completely different, separate.

Mrs. Campbell: What was your advertising for, for example?

Mr. Dobranowski: What would I advertise for?

**Mrs. Campbell:** These are two buildings that you said had no vacancies. You weren't therefore advertising for tenants. Why is your figure up so much?

**Mr. Dobranowski:** The advertising is done on a general basis. When people phone, let's say in Oshawa, the lady who answers the phone would ask where in the city they would like to live—the south part, the north part, the east or west. That's where the buildings are situated. Accordingly she would offer them a building, let's say, on the south side, if they wish one bedroom, two bedrooms or three bedrooms; but the advertisement says "one, two and three bedrooms available."

[9:15]

**Mrs. Campbell:** That is the kind of thing that bothers me. If you have five corporate structures and you are advertising certain suites, and yet this is related solely to two suites where there are no vacancies, are you perhaps incorporating for this the cost of suites in buildings in other areas where you have a higher vacancy rate?

**Mr. Dobranowski:** No; this doesn't happen. The buildings are in Oshawa, Peterborough and Lindsay. For the buildings in Lindsay, you would advertise on the Lindsay radio or in the Lindsay paper. For the buildings in Peterborough you would do the same thing in Peterborough. There is absolutely no conflict of interest in those corporations because the shareholders are not necessarily the same in each case.

**Mrs. Campbell:** But you have increased your advertising account from \$403 to \$2,458 in two buildings where you have no vacancies and have had no vacancies.

**Mr. Chairman:** Excuse me. Can I ask a clarification here, Mrs. Campbell?

**Mrs. Campbell:** I am sorry if I am taking up time.

**Mr. Chairman:** No, that is quite all right, although time is a real problem. This is the second time you mentioned there were no vacancies, sir. Maybe I misunderstood, but I thought when you were talking to Mr. Kennedy you said that there were.

**Mr. Dobranowski:** We are talking about 1976 because the lady is questioning \$403 against \$2,458.

**Mr. Chairman:** Exactly. But I thought you said there was a vacancy rate in 1977 of something in the order of three per cent—

**Mr. Dobranowski:** That's right.

**Mrs. Campbell:** I thought you said in these two buildings there was no vacancy, but that

you had a vacancy rate in others of three per cent and some of eight per cent. Am I in error?

**Mr. Dobranowski:** No. There was a misunderstanding.

**Mrs. Campbell:** I am sorry. So the advertising—

**Mr. Dobranowski:** That's right, it is down for those buildings because we have something available only in those two buildings.

**Mrs. Campbell:** I am sorry. Thank you for the question.

**Mr. Chairman:** Mr. Warner. If you could keep it brief, we are running behind now.

**Mr. Warner:** Yes, I appreciate that, Mr. Chairman.

My remarks are more for our consultant with respect to what has been given to us here. I certainly appreciate the fact that you have made this presentation and given us a very clear indication of a serious problem, that of unexplained general maintenance figures that are included, not only in your statement but in every statement I have ever seen at rent review hearings.

That is why the comment is directed to the consultant. Since maintenance has consistently been a problem and seems to be a key to the Landlord and Tenant Act as well as to the rent review act, I am wondering if the consultant can find some key to how we handle the maintenance aspect of the forms which must be filled out for rent review.

It just isn't good enough to put down "general maintenance, \$64,000," or \$164,000, or whatever. The tenants, of course, are left without any explanation. They normally have no way of obtaining an explanation at rent review hearings, at least the ones that I have attended. Maybe we can address the problem of the form itself and what type of verification is needed, what kind of rent proof is necessary and how the tenants should be notified.

**Mr. Chairman:** Mr. Dobranowski, thank you very much for your time.

**Mr. Dobranowski:** Thank you very much for the honour of being here. I am grateful to everybody for your patience. Thank you very much.

**Mr. Chairman:** We are running into a bit of a time problem, partly, I think, just simply because we have more of the committee here and obviously more questions. If we could all try to restrict ourselves to the minimum number it would be appreciated.

Back to Finch Avenue West, in the heart of Armourdale. Mrs. Ellen Scott, are you west of Bathurst?

**Mrs. Scott:** Yes, I am on the southwest corner. I live in Weston and have a Willowdale telephone number.

**Mr. Chairman:** You don't live on Finch, then?

**Mrs. Scott:** Yes, I do; 523 and 521 were the first buildings there, built in the summer of 1959.

**Mr. Chairman,** members of the committee, ladies and gentlemen. This is a short brief.

**Mrs. Campbell:** Could you speak up? I am sure the other people here would like to hear you, too.

**Mrs. Scott:** This short brief is submitted by the Tenants' Association of 521 and 523 Finch Avenue West, in North York. We have at present approximately 25 members and are affiliated with the Federation of Metro Tenants' Associations.

Ours is a limited-dividend building financed by Central Mortgage and Housing Corporation. The two buildings were built in the summer of 1959 and each contains about 83 units.

**Mrs. Campbell:** Eighty-three?

**Mrs. Scott:** Yes; there is a mistake there. Sorry.

We would like to explain our difficulties in increasing membership of the association. Approximately 45 per cent of the tenants in the buildings are of ethnic groups, including Korean, Hungarian and Russian, and they do not understand English well enough to understand laws protecting tenants.

Furthermore, as the rents in the buildings are at present still below market level, tenants are frightened to enforce their rights or exert pressure on the superintendent to do repairs and maintenance work for which the landlord is responsible. One tenant recently came to the tenants' association and told us she was frightened to go to the super to have her stove fixed. The basic fear among tenants in the two buildings is fear of eviction, fear of losing their home, a home for which they pay relatively low rent.

As tenants of a limited-dividend building, we have an extra strong fear that the present legislation regarding security of tenure is weakened. Unless the laws remain at least as strong as they are at present, and the tenants' association is successful in gradually familiarizing more tenants in the buildings with their rights, tenants in these buildings are never going to enforce them and maintenance in the buildings will gradually deterior-

ate. The fact that rents are relatively low here is an extra factor in discouraging tenants from enforcing their rights.

We would like to comment on the suggestion in the green paper that limited-dividend buildings be exempted from rent review. Our experience of rent review in 1977 was that the appeal board allowed a 10 per cent increase while CMHC had authorized a 14 per cent increase. In June 1975 we had an increase of 22 per cent which was presumably approved by CMHC. Clearly, the control of CMHC is not adequate. As lower income tenants we desperately need as good a rent review process as possible.

Our second concern about possible consequences of being left to the mercy of CMHC is as follows. CMHC usually allows an increase in the global revenue of the landlord. In other words, Greenwin does not necessarily have to apply equal increases to all tenants as he does under rent review. Without rent review, Greenwin would have the opportunity to impose excessively high increases on tenants who were active in the tenants' association and in encouraging tenants to enforce their rights.

Since the introduction of rent review, maintenance in the buildings has dropped. For example, before rent review our Greenwin maintenance crew included 13 plumbers. Since rent review started the number of plumbers has dropped to three. Whereas previously work orders would be responded to within a week, we now wait six to eight weeks to get work done. Snow removal service has dropped drastically.

We support the recommendations of the Federation of Metro Tenants' Associations that the level of maintenance in a building be considered in the future procedure for reviewing rent increases. We venture to suggest that any rent review officers should inspect buildings, or consider building inspection reports when assessing rents.

Another experience supporting the need for this process is as follows: At our appeal hearing the landlord was granted cost passthrough for 35 stoves. A survey of the two buildings done by the tenants' association showed that at most five people had received a new stove in the stipulated year. If the stoves were billed to 521 and 523 Finch West, it appears that they did not reach the buildings. We contend that the rent review process requires that more detail be given regarding appliances as capital expenditures. A list of the apartments to which they have been distributed should be provided. In fact, all expenditures shown in the repairs and the maintenance break-



down, painting, sanding of floors, new counter tops et cetera could be checked by inspection.

Finally, we want to return to the question of affordability. In our buildings, we have approximately 30 senior citizens, others on fixed incomes and single parents. All of us earn approximately \$13,000 per annum. Due to the limited dividend regulations, if our rents are not protected by a good rent review procedure, we will have to move from the building, and we don't know where we would go to.

In June 1975 our rents rose 22 per cent. A rent increase was presumably approved by CMHC. Between September 1973 and the beginning of rent review our rents increased by 35 per cent. We have every reason to expect that the rents will begin to leap up again if the rent review expires in December 1978.

We can conclude by endorsing the brief of the Federation of Metro Tenants' Associations.

**Mr. Epp:** Mrs. Scott, I appreciate the comments you've made. I have one question, that has to do with the fear of eviction which you speak about in the second paragraph. You speak about the fear but you don't substantiate it. I'm just wondering what you can add here to show that this fear is well founded.

**Mrs. Campbell:** It doesn't need to be is what she is saying, isn't it?

**Mr. Epp:** What's gone on in the past to indicate this?

**Mrs. Scott:** Central Mortgage and Housing asked Greenwin limited dividend building, which runs the building now, for a total family earnings letter to include everything. Some are new Canadians where maybe the wife goes out and cleans houses. She does not declare this as total taxable earnings because she does not pay tax on it. The superintendent says she works and she has to put this down.

These people are scared. They don't understand. There is a woman across the hall who is Russian who came crying to me because I'm Canadian born. I'm one of the few Canadians that live in the building. I said, "You don't have to put this down. You don't pay income tax on it. You don't make enough to pay income tax on it. It's none of his business. It's his business to maintain the building." He works for Greenwin limited dividend building, but he doesn't work for Central Mortgage and Housing.

There are young girls who stay home all day and who may take in a child for day care. I will say that most of the people that are in the building have low family incomes.

They haven't got the money to pay \$200 or more for an apartment. What can you get today in North York for a three-bedroom apartment under \$200?

**Mr. Epp:** It's these other threats that I was interested in. Can you elaborate on it? I would appreciate that.

**Mrs. Scott:** The only other thing I can say to you is that they're asking for a larger total and saying we make too much money. They give us a figure on our lease of \$13,000. We have been told—and I don't know whether this is true or not—that our total earnings are supposed to be seven times our rent for a limited dividend building, plus 15 per cent. I doubt that, because if you pay \$200 rent and you take seven times that, plus 15 per cent, you're up in the \$18,000 bracket. My husband is not in that bracket yet. He's a long way from it.

[9:30]

The people in the building are, as I say, on a fixed income, and maybe not long enough in the country to have an old age pension; old enough to be eligible for it but not here long enough for it. Or you have women who are widowed, or a woman who is separated from her husband and he's not giving her her payments, and she's got two children to feed.

**Mr. Chairman:** Thank you very much. David.

**Mr. Warner:** I think what you've mentioned is generally the case where the superintendent attempts to take on the authority of CMHC. I've got a documented community case where that kind of thing occurred. The superintendent decided the tenant should pay extra money because the tenant had purchased a micro-wave oven. The tenant ended up having to go to Mr. Ouellet, and to Consumer and Corporate Affairs as well, with my assistance, to get the whole thing resolved. The superintendent had decided that was the way the matter would be dealt with, as opposed to CMHC or the owner, and I suspect that may be a problem in other buildings.

The maintenance aspect, again, has been a great source of curiosity for me. Since the maintenance costs are passthrough costs allowed in rent review legislation, is there some explanation as to why, in general, the maintenance has dropped off as you have indicated in your brief? Is there some explanation for that?

**Mrs. Scott:** No, other than what I know from the superintendent and what I was told by the maintenance men who worked for

Greenwin at the time, that they were cutting back. I understand the building had been sold. Greenwin sold it to three different individuals and that's when the cut was.

When I say 13 plumbers, I mean Greenwin had a staff of plumbers. They also hired Armstrong and Baum. If there was emergency, it was done. When I first moved into the building and you had a problem, you made two copies of a letter, took them to the superintendent, you signed it and he signed it. The property manager at that time said if it wasn't done within three days you had to phone head office.

You can phone head office, you can phone—well, we have had one girl phone the mayor's office and she got the building inspector to come about a stove. You have got to realize this building was built in summer of 1959 and those same stoves are in that apartment. I know a lot about local apartments there where you have maybe 200-300 tenants in one building using the same stove. What do you expect a stove to do? An average stove in a woman's home lasts maybe 12 years, give it 20 if she takes good care of it, and that's a stove that you bought before 1958 too, sir, not today.

**Mr. Warner:** Would you go so far as to say that since the maintenance costs are allowed through the rent review process, and the landlord has decreased the maintenance, that it's possible that it's been part of a larger plot to show that the rent review process doesn't work, and causes problems, and therefore should be abandoned?

**Mrs. Scott:** No. I don't agree with that.

**Mr. Warner:** There should be some explanation as to what's—

**Mrs. Scott:** You get a slip, you go down and tell the superintendent, he makes a work order, he hands it to his property manager, and that's about as far as it goes. When you go down to superintendent he throws up his hands. He has given it to his superior, right, and that's where it is. You call the property manager and he says "Oh, well I turned that in. There should have been somebody up there last week. We'll look after it."

That's fine. The next time you phone you get his secretary and that's as far as you go. I don't talk to secretaries. I only talk to people who get paid to do the job. That's the way I work. When I phone, you don't get who I am. I say, "Didn't you pay his bills"? I have a lot of people who come to me for help, because when you get me on the phone, I don't take no for an answer.

**Mr. Rotenberg:** Did you say Greenwin still owns it, or has the building been sold?

**Mrs. Scott:** I believe the building has been sold, and it was sold to one of the men who originally bought the land, Mr. Al Borden.

**Mr. Rotenberg:** Is the change in maintenance related to the change in ownership?

**Mrs. Scott:** Yes. He owns the washing machines. We get no refund on the money we put in the machine. If it doesn't work, that is too bad. The thing that bothers me most is that the people in my building went to the rent review board. The man who came with the figures was a chartered accountant. Maybe he believed his figures, but he said 35 stoves had come to the building. My girl friend was the superintendent during this time. Another gentleman picked up the used stoves. We had five stoves come. Greenwin's books said they had 35 come. That is fine. Where did the other 30 go? We didn't get them.

They said they had spent so many dollars on paint. We didn't get that. They said they spent so many dollars on counter tops. They didn't come either. They said they sanded floors. We didn't get that either.

**Mr. Rotenberg:** You mentioned that to the rent review officer?

**Mrs. Scott:** Yes. Then there is the maintenance on floors. At one time, they used to be washed once a week. Now we are lucky if we get them washed every four or five months.

**Mr. Rotenberg:** What did the rent review officer say when you told him those things in your statement?

**Mrs. Scott:** I didn't go to the rent review board. I wasn't one of the tenants that went.

**Mr. Rotenberg:** You don't know what happened then when they took this up with them? I would be interested in hearing what the rent review officer said. If you said to the rent review officer that the stoves didn't come or the floors weren't sanded, what did the rent review officer say?

**Mrs. Scott:** The rent review officer said this was a reputable accounting firm and it wouldn't lie. End of statement. I am not saying the accountant was lying, but if Greenwin doesn't give him correct figures, how can he check?

**Mr. Rotenberg:** He didn't go beyond the accountant?

**Mrs. Scott:** No. The floors are never sanded. When you move in, if you want them sanded, you have to pay the super and he gets them sanded for you.

**Interjection:** I want to make an interesting observation. One of the problems we



have discovered is where people have representatives at the rent review hearings—it may be an accountant or a lawyer or someone of this nature—it would be really advantageous if the owner himself could be there, or someone in a responsible position.

**Mrs. Campbell:** It would be clearly advantageous if we had somebody from Central Mortgage here.

**Mr. Rotenberg:** More important than the owner being there, I have discovered at the few rent review hearings I have been at is that the—

**Mr. Duksza:** The MPP could go.

**Mr. Rotenberg:** Of course an MPP can go. You can go as an MPP. I do.

**Mr. Duksza:** Have you?

**Mr. Rotenberg:** Yes.

**Mr. Duksza:** Then you would vote for the rent review program?

**Mr. Rotenberg:** The rent review people don't seem to verify things where there is a dispute. For instance, in this case there is a dispute as to how much you spend on something. Maybe there is something wrong in their terms of reference, but there is not a proper verification. When there is an agreement on what the facts are, then the rent review officer can make a judgement. When there is a disagreement on the facts between a reputable landlord and a reputable tenant as to how many stoves arrived and were the floors sanded or is the swimming pool open or not open—and I have seen these things—then if there is going to be a rent review process, there has to be some process by which the rent review has independent investigators, someone who can independently verify the facts. Otherwise, someone gets the short end, in one case the landlord and in one case the tenant.

To me there is something unfair about it if these facts can't be verified. I don't think these facts are even taken under oath sometimes.

**Mrs. Campbell:** With respect, I don't think, that the rent review process, particularly as far as limited dividend goes, is very much different from the process that CMHC goes through, which is simply to accept, as nearly as I can judge, the audited statement which is presented to them. I think they go one step beyond that and say "This increase is within the general guidelines for all limited dividend in this area," or something like that.

To me, this is one of the very crucial problems with both Central Mortgage and with rent review. If somebody appears and

says only five stoves came, it doesn't seem to me that you need some mastermind to find out whether it was five or 35. It just makes me very angry with limited dividends particularly, where you are supposed to have some protection from the start.

I think it is totally wrong. The problem with rent review officers—and there is one who would like to appear before this committee, and it would be very useful to have her appear because then we will get the point of view of the rent review officer—is the limitation in the jurisdiction to pursue this.

**Interjection:** That's right.

**Mr. Rotenberg:** It may not be the rent review officer's fault. It is the fault of his jurisdiction.

**Mrs. Campbell:** That is right. And I think we should hear from her, if we might, before we conclude—I am not saying today but next Wednesday—so we can get some idea as to where the fault really lies.

This distresses me more than almost anything else, because there are two agencies of two governments that are letting things slip through.

We have heard an awful lot of criticism from both landlords and tenants, both of whom think the rent review officers are biased. They must be very wrong some place if they both think the officers are biased. I think we should hear from an officer who is prepared to come before the committee so we can understand their problems and incorporate that kind of fact into our report.

**Mr. Rotenberg:** An excellent point.

**Mr. Chairman:** Thank you, Mrs. Campbell. Those are good points. If we can next Wednesday, I think we should attempt to do that.

**Mrs. Campbell:** Well, she is here so let's make the arrangements.

**Mr. Chairman:** If we can even this evening, we will try.

**Mrs. Campbell:** I don't think we can this evening.

**Mr. Chairman:** We have seven more briefs to hear.

**Interjection:** No, four more.

**Mr. Chairman:** No, there have been three additions. It is 17 minutes to 10. Rosemary Black is next.

**Mrs. Campbell:** Where is Rosemary Black? Is this a new one?

**Mr. Chairman:** That is 11 Fontenay Court, replacing Dorothy Aldridge.

**Interjection:** What happened to Graydon Hall?



**Mrs. Black:** That gentleman has very graciously allowed me to go before him.

**Mr. Chairman,** ladies and gentlemen, you have one brief before you; I have two briefs. I am going to read the one you don't have, just to shorten matters, and it is very short.

I represent the tenants of 11 Fontenay Court. Our association was formed to enable a unified body to fight against unfair rent increases.

**Mr. Rotenberg:** Could you tell us where Fontenay Court is?

**Interjection:** In Etobicoke.

**Mrs. Black:** It is approximately—I am terrible at directions—at the intersection of Eglinton and Scarlett Road.

Our building was sold to members of an ethnic group who refused to let any present tenant buy into it because he was not of that nationality. The building was never registered as a condominium, nor as a co-operative. However, these people, who only owned shares not individual suites, acted as if they were an individual owner.

As the new owners they began harassing tenants, demanding to see their suites, and flew into rages when tenants refused them admittance. Eviction notices were issued with no regard for the law and huge rent increases were demanded.

Stupid, piddling little directives like "You can't have a parking spot because you are not of this nationality," and, "I am the owner, so you get out of the parking spot," were being issued and are still being issued. And it was impossible to get anything fixed unless you happened to have been born in that country.

These people have been fought in court after court and have always been defeated so far. However, they will not stop. How long must this upsetting ordeal continue? Many tenants have already given up in disgust and left. What about the senior citizens or single parents, of whom there are many in our building? What are they to do?

There should be legislation to prevent all these continued hearings and appeals.

At this point, I must say every time we went to rent review, we got a very fair hearing. The rent review officer was excellent. He demanded verification of everything. He threw out things that the landlord could not verify, of which there were many. He was very, very fair to both sides. And in every case the appeal, which there always was, backed him up.

[9:45]

There should be legislation to prevent these continued hearings and appeals. Therefore, I would like to recommend the following: Since all the landlords' figures apply to all the apartments, the rent review officer's decision should automatically apply to all the apartments for one 12-month period. That is to say, if a group goes this month, and another group goes next month and the landlord presents the exact same figures, I fail to see why there needs to be another hearing. Meanwhile, we drag ourselves to all these hearings.

A second point: When the landlord is found to have submitted false or inaccurate material—and that occurred many times—or if he contravenes the act in any way, he should be severely fined and lose his right to rent review for that 12-month period. It was only through the grace and intelligence of this rent review officer that many of these false documents were found out.

The final point, which I can't stress enough, is that rent review should be established as permanent legislation in this province.

**Mr. Chairman:** You have another brief, Rosemary. Is that correct?

**Mrs. Black:** Yes, would you like me to read it? It's short.

**Mr. Chairman:** I was just going to ask David, who had a question, if he wished to wait.

**Mr. Warner:** I am just curious in terms of the building as to whether there is a court proceeding right now with respect to the building.

**Mrs. Black:** There was one just a few weeks ago, and it was over an eviction notice. The judge threw it out because he said the eviction notice was filed under the wrong section of the act. That gave us a little more time. But I know there will be more.

**Mr. Warner:** Is it like a condominium conversion that is taking place?

**Mrs. Black:** It is a group of people who have bought the building and who have shares; and they are now parading around like they are owners.

**Mrs. Campbell:** That is a new phenomenon that has developed where people are selling shares in condominiums but not selling the actual unit, and it can work badly both ways.

**Mr. Warner:** It is a cute game.

**Mrs. Black:** No, sir—

**Mr. Rotenberg:** They just own shares in the building. It is not condominiumized at all.

But because they are owners, they think they are entitled to walk into anybody's suite any time.

Mrs. Black: That's right.

Mrs. Campbell: Oh, I see. I thought they were—

Mr. Rotenberg: No, they are owners in the whole building; it's still all rented units.

Mrs. Campbell: That's right, and yet they are trying to move in as though it were a condominium.

Mr. Warner: You would agree with an annual hearing for all the units in the building?

Mrs. Black: And I think these should be a standard percentage.

Mr. Warner: Yes.

Mrs. Black: Just briefly, the other brief perhaps goes into a little more detail.

It says: "The building at 11 Fontenay Court is a six-floor structure containing 51 suites of one- two- and three-bedroom units. Early in September 1976 the building was sold to one individual. Within four days, it was again sold to a group of 47 individuals. These people were led to believe, and still maintain, each is the owner of an individual suite or suites. The building is now known as Krakus Apartments Limited.

"As of April 10, 1978, no application had been made for condominium or co-operative status in the borough of Etobicoke. Consequently, the tenants maintain that the new owners have no legal rights to evict them under section 103(d) of the Landlord and Tenant Act.

"Tenants have received notices of rent increases of as much as 38 per cent. Applications for these rent increases were made to the rent review board by the owners, but the board has allowed six per cent and seven per cent. This is appreciated by the tenants, in particular those on fixed incomes and senior citizens.

"We contend that the authorities should rule that 11 Fontenay Court is or is not a registered condominium or co-operative.

"Annual rent increases should be reviewed once a year . . .

"Prior to any rental review, each landlord should submit a certified financial statement two weeks in advance of the review. If this is not done, the application for the increase should be denied.

"In our opinion," rent control, of course, should continue.

Mr. Chairman: Thank you very much. Are there any questions?

Mrs. Campbell: I have one, and it really isn't a landlord and tenant matter. Have you ever thought of going to the Ontario Human Rights Commission on your earlier contention?

Mrs. Black: As a matter of fact, there has been an application filed with the human rights commission by one person because of this parking incident. I don't believe anything has come of that yet. I am advised that he got his parking space, but that is kind of an extreme measure to take to get a parking space.

Mr. Chairman: Thank you for your time.

Mr. Norman Brudy, Twenty Graydon Hall Tenants Association.

Mr. Brudy: Mr. Chairman, members of the committee, fellow tenants. This submission is on behalf of Twenty Graydon Hall Tenants Association, Twenty Graydon Hall is an apartment building situated in the northeast corner of North York, just below 401, off the Don Mills Road.

We established our association over two years ago. We are affiliated with the Federation of Metro Tenants' Associations. We actively participate in a North York committee of all tenant groups affiliated to the FMTA, thus we are knowledgeable of the problems of many tenants throughout North York.

The motivation to organize in our building came when tenants received notices for rent increases ranging from 25 per cent to 40 per cent. Since our organization has had input into the brief of the FMTA that was presented to this committee, it would suffice to say that our association fully endorses the federation's brief and its specific recommendation to improve the Landlord and Tenant Act and the Residential Premises Rent Review Act.

We especially want to endorse the position of the federation on housing supply, and I would like to quote the federation's brief in that regard: "The Federation of Metro Tenants' Associations has consistently taken the position that decent, affordable housing is a fundamental human right."

I believe, Mr. Chairman, that Canada is a signatory to the United Nations document stating that position.

"Thus the responsibility for its provision is a social one. The government must guarantee housing to each and every one of us and devise programs to effect such a guarantee. We frankly don't care who builds it but we do care how it is built, on what basis it is operated and in whose or what interest it is run."



Developers and landlords over the past year have stepped up their campaign against rent controls and tenant security legislation. They are trying to tell the public, as well as this committee, that the housing crisis we face in Metro Toronto is due to the above legislation. They would like you to believe that if this legislation was removed or drastically weakened, they would be prepared to build apartments et cetera. All the facts prove otherwise. There was a crisis before rent review legislation and it is that crisis that brought about rent control and the changes in the Landlord and Tenant Act.

The corporate landlords are trying to hide behind the skirts of the little landlords whom they claim are all going broke. They spread horror stories of how terrible tenants are, what horrendous physical damage is done to their properties. We wish to state this propaganda is an insult to the majority of tenants in this city. Tenants are honest, hard-working people who pay their rent and who have a pride in their place of residence. One has to experience the treatment tenants have to endure in order to appreciate the situation. The only rights the landlords allow the tenants is to pay rent.

We are citizens and when we purchase a product—for example, to rent an apartment or suite—and that apartment doesn't come up to the standards we agreed to when we bought it, there is very little we can do about it. You have almost no opportunity to get what you are paying for. In fact sometimes you get a little bit more than we bargained for, like cockroaches and a few other items.

It is the landlord who decides what hours the laundry room stays open and when it closes, when the pool or other facilities operate. Rarely are tenants' desires or their interests taken into consideration; tenants are nothings as far as the landlord is concerned, even though we pay for all those facilities and services.

Tenants have to put up with incompetent management. For example, landlords claim they pay for window washing and it's never done. Laundry rooms are leased out to outside operators and the service is lousy. There is not a damn thing the tenants can do about it, because you don't even know who these operators are. If you speak to the landlord, he tells you he's got a contract or something with some company and he can't do anything about it.

**Mrs. Campbell:** The Ontario Housing Corporation says the same thing.

**Mr. Brady:** They all say it. Your committee, Mr. Chairman, should be made aware

that tenants have to keep a log so they know who the present property manager is. They change so often that most of them couldn't find their way out of the back door of the building they are supposed to manage. There is also rapid turnover of superintendents. These create much frustration and tension in the building. This committee, in my opinion, would not be overstepping its bounds if it recommended that the government set up a commission to investigate the business practices of those in the rental business.

I'll give you an example of what happened this week. I was called to a tenants' meeting at 70 Spadina Road. The tenants at 70 Spadina Road received a letter from Consumers' Gas signed by Mr. R. D. Elliot, district credit manager. The content of this letter is that since the gas bill has not been paid, two days after this letter arrived the gas would be cut off.

On phoning Mr. Elliot I discovered that the gas bill amounted to \$19,012. I don't know how long it takes to accumulate that bill. When I asked Mr. Elliot, "You're cutting off the gas. How does that hurt the landlord? It's the tenants who will be without hot water. It's the tenants who will be without the facilities. It's the tenants who have paid their rent all along. How come you're punishing the tenants?" Of course, Mr. Elliot is the business manager of Consumers' Gas and he has no other alternative but to protect his interest. What I'm telling you is that the business practices should be examined, because this is a classic example of it.

I have another example. The tenants in that same building received a letter saying, "In order to conform to pollution control laws and to prevent fires in the garbage chutes, we are closing the garbage room effective immediately. Tenants are requested to place their garbage in green plastic bags"—maybe the white ones are no good—"and take all garbage to the containers in the designated areas at the rear of the building." It's a 10-storey building. In the middle of summer you're going to save or accumulate garbage or you're going to run down these stairs 100 times a week in order to get this garbage out.

I phoned the Ministry of the Environment, which has something to do with this. I asked the gentleman if he issued such an order. He said no, he did not. There was never such an order issued to the landlord at 70 Spadina Road, yet the landlord issued this letter, "effective immediately."

[10:00]



I think, Mr. Chairman, that this committee would well do its job if it recommended an investigation into the business practices. You have heard other experiences here about false figures. I can tell you that I was at a rent review hearing where a landlord submitted a tax bill for four buildings that he owned in the square when he was supposed to be dealing with one building. It's true, you can find that out; you phone the municipal office and you'll find out. But why should tenants be subject to that kind of treatment? You can go on and on. There is literally no limit to the shenanigans being practised by these people. I think it needs an investigation.

I would like at this time to say something about our relations with the landlords of 20 Graydon Hall; and I might say that in comparison with the majority of landlords in Metro, ours could be considered an enlightened landlord, albeit there's room for improvement.

Since the enactment of the rent review legislation, tenants have never been asked for a rent increase higher than the allowable eight per cent or now six per cent. In a number of cases where tenants felt that the allowable increase was unjustified for some very specific reason in that particular building with that particular suite, we were able to negotiate a satisfactory arrangement between the tenant and the landlord.

To me, Mr. Chairman, this would indicate that if a corporate landlord like ours can operate a profitable rental business within the guideline and its increases, then this committee should have no difficulty in recommending to the government that six per cent or less is sufficient to maintain an acceptable profit margin.

I want to say that I know that it's not good bookkeeping, it's not good accounting, but when we listen to landlords who belong to the bleeding brotherhood society complaining about all the losses and how terribly they're being treated, I would like to know if, when they consider their profit, they're considering only that profit on what they have invested—never mind what the total building is worth. When you go to Loblaws, they'll tell you they make one cent on a dollar sale and that's true. But when you figure it out, they make maybe 18 to 20 per cent on what they have invested, and when I go to the bank, I put in only X number of dollars and I can't expect the bank to pay me an interest on its assets; it pays me only on mine.

**Mr. Warner:** You should be the Treasurer of Ontario.

**Mr. Brudy:** I'm not a good enough accountant for that.

Also, we feel this committee should know that our landlord is willing and has from time to time met with our tenants' committee to discuss and negotiate grievances. The results have been beneficial to both parties. The situation removes tensions in the building and it makes the work of the superintendent much easier. This kind of respect for tenants and the well-tested manner of resolving problems by negotiations, however, should not be left to chance.

We would like this committee to recommend that the government make the Landlord and Tenant Act read so that provision is made for landlords to recognize tenants' committees and to negotiate with them grievances in the building, particularly about maintenance, particularly about these problems for which there doesn't seem to be any solution. If landlords would meet with tenants' committees and tenants had the right to negotiate with certain economic power behind that right, I think we could solve a great deal of these problems.

I might say that when our organization heard that the government was issuing a green paper, in spite of its colour, we had great apprehension, and this apprehension comes from the knowledge that the government was dragged against its wishes into the present legislation. In fact, one minister of housing refused to administer the act. We have sat in on discussions with cabinet ministers who, after the legislation, still made it clear that they were against rent controls. Even as late as a few weeks ago, it was reported in the press that Mr. Davis, on an open line radio program in Ottawa, said that the controls were responsible for the housing crisis. I don't know if he said it or not, that's what the papers said.

In studying the green paper our fears were justified. The 32-odd options that the green paper deals with are stacked against the tenants and, if carried out, would place tenants in a still more unfavourable position in relation to the landlord. The paper fails to deal with the deeds of the tenant—e.g. for more rights, greater protection, better maintenance, lower rents and ending the cost passthrough system of allowing rent increases. The green paper fails to recommend that the government bears a responsibility to citizens. It places its hopes for supply on the developer and the free market. This, of course, only after a pound of flesh from the tenant is given to the landlord for incentive.

I would like to appeal to the government members of this committee to tell their col-

leagues that nothing but an improved rent review program and a strengthened Landlord and Tenant Act which will give more rights and protection to tenants, will be acceptable to the tenants in this city. While tenants' organizations are non-partisan, they are very politically conscious since it is in legislation that tenants can find solutions to their problems. One of the main reasons, I believe, that we have in Ontario a minority government is because the tenant voters in the last two elections defeated those candidates whom, they felt, did not represent their interests.

**Mrs. Campbell:** Not all of them.

**Mr. Warner:** They made two mistakes.

**Mr. Brudy:** Certainly, the turnout by tenants at these hearings is proof of the growing awareness of tenants of the political process.

To the members of this committee who represent the opposition parties, you have a big responsibility to see to it that justice is accorded to the tenants who make up over 53 per cent of the citizens of Metro Toronto, and a substantial percentage of the province's population. You must be aware that in the next decade or so the great majority of Canadians will be living in large metropolitan centres. This will mean even greater numbers of people will become tenants.

Old ideas and concepts of tenant-landlord relationships must be changed. Old ideas of how housing is to be supplied to our people will also have to undergo great change. The changes that were made in the Landlord and Tenant Act in 1975, as well as the introduction of rent review, showed that the government was beginning to tackle the problem of tenants' rights. The opposition parties in the Legislature now have an opportunity to make Ontario a leader in this field.

All tenants will be watching with interest and concern how this committee carries out its responsibilities. I thank you.

**Mr. Chairman:** Sometimes, Mr. Brudy, members of the committee feel that, especially after seven weeks and a couple of long evenings, that we've heard it all.

**Mr. Brudy:** I believe so.

**Mr. Chairman:** But you and some of the others who preceded you tonight disproved that. It was very interesting. Thank you. Are there any questions?

**Mr. Williams:** I just have one, Mr. Chairman. Mr. Brudy, what was the final outcome of that \$19,000 arrears of gas service?

**Mr. Brudy:** The outcome was that I phoned the city alderman whose ward the

building is in and explained the situation. After two days of telephone calls back and forth, for one thing and another, I now understand that under section 42 of the urgent hazards bylaw, I guess it is, the city could move in. My understanding was that the city executive voted to accept \$10,000 of that \$19,000 bill. I don't know how they are going to collect it back because I also discovered that that landlord is somewhere in the neighbourhood of \$40,000 in arrears of taxes.

I am not exactly sure, but that is what they did and Consumers' Gas is at least satisfied at this point and is not cutting off the supply.

**Mr. Warner:** In a case like that, why shouldn't the rents from the building simply go to Consumers' Gas and not to the landlord? Just cut off the rent.

**Mr. Brudy:** Of course, Consumers' Gas would accept that, and the tenants have a right to do that. But I think you will appreciate that getting 110 people in a building to agree to put their rent in escrow is not something that happens in five minutes, or very easily. It takes a considerable amount of time, a considerable amount of work; and I would like to know why in the hell we should be responsible for that kind of a situation when the landlord is the one that is guilty? Why should we do all the work?

**Mr. Warner:** That is what I am getting at. If you had a rental commission that had the power to deal with that and direct moneys, then that could be accomplished. The service would be restored and paid for, and the tenants wouldn't suffer. The landlord would be brought back into line pretty quickly because it seems to me there is only one thing landlords understand and that is the rent cheque.

**Mr. Brudy:** Tenants warn you how they defend themselves. That is quite evident from what you have heard in these seven weeks.

I want to make it clear that the Federation of Metro Tenants' Association has one full-time person that we put on staff just three weeks ago. We don't know how long we can keep that up though because the money comes from the affiliates' dues and whatever grants we can get.

I think it is quite evident that legal services such as the Parkdale Community Legal Services, the Hotline, the Metro Tenants' Legal Services and others are providing an invaluable service to the community. It might be a good idea if this committee would recognize that. Maybe their funding should be stepped up and be secured, because at the present moment it is not very secure.



**Mrs. Campbell:** You are not alone on that one.

**Mr. Rotenberg:** I would just like to correct the record. There was a quotation attributed to Mr. Davis where he is alleged to have said rent control caused a housing shortage. That was not what he said. When he was questioned about it, he said he didn't think that rent control helped the situation. He didn't say it caused the problem. So let's just get that on the record. You were quite correct when you said it was a report; you didn't quote him. I just want you all to understand what he said.

**Mr. Brudy:** I must say I agree with you if that is the case, except that I am not very satisfied with that kind of answer, because I don't think rent control has had anything to do with the question of supply.

If the big corporations invest in San Francisco and wherever else they are investing, anybody who knows something about economics knows damned well—and I am not criticizing them—that they are doing what comes naturally. You put your money where you can get the most return, and that may be perfectly okay for Greenwin and the rest, but it doesn't supply affordable housing to tenants, and that is the problem.

I am not criticizing the business world for making profits. That is what they are in business for. What I want to do is keep it out of housing. I don't think that is a business to be in.

I once made an offer to a member of the UDI on a debate. He was complaining, shedding crocodile tears too, like the gentleman that was here before me. I said, "All right, the tenants will go with you to the government to buy you out so you won't lose money and can get out of the business." He never took me up on it.

**Mrs. Campbell:** I am interested in just one question. In that Spadina Road property, has there ever been an application, to your knowledge, for increases in rent with figures supplied for expenditures?

**Mr. Brudy:** I must say that last week was the first occasion that I was called to the meeting. There was myself and a representative from the Tenants' Hotline. The tenants had got together because of a number of things, and I really don't have any detailed information on that particular building. We will meet with the tenants in the next day or two, and if we can get that I will be glad to supply it to you.

[10:15]

**Mrs. Campbell:** We have had various statements which could be deemed to amount to allegations of fraudulent practices. It would be interesting if we could get into some of these, because it would go to the kinds of things we would hope to be considering in our report, such as having specific sanctions where inaccurate statements were made about costs.

I am not suggesting any fraud in this case, obviously, because I don't know. But it would be interesting to know whether at some stage there was a statement as to the costs of Consumers' Gas, or whatever else, with that sort of a story behind it. There may be nothing.

**Mr. Brudy:** There is a saying I am sure you are familiar with, while figures don't lie, liars figure. I must say that it is very difficult for tenants to get all this stuff. I am not just trying to make a case, but I am saying—

**Mrs. Campbell:** Oh, go on. You are always trying to make a case. You know that.

**Mr. Brudy:** —from my own experience there is no question that what is considered legitimate in the business world and the shenanigans that go with it, while perhaps not illegal, is sure as the devil costly for the tenant.

**Mr. Chairman:** Mr. Brudy, thank you very much.

**Mr. Warner:** A question for Mrs. Campbell: I appreciate what you raised, do you have some idea of how we should go about that? I have mull'd it over in my mind, too. We have had problems in my own riding similar to what you have mentioned. I don't know how to attack the problem, whether or not we need some recommendations through a consultant as to how you plug the loopholes or a procedure suggested for verifying these things. I really don't know. Perhaps one way is that the rent review officer be empowered and directed to inspect some of these things. That is why I asked if Mrs. Campbell has any suggestions.

**Mr. Chairman:** May I just interject, because I am afraid that Mrs. Campbell would have some suggestions.

**Mrs. Campbell:** You are darned right.

**Mr. Chairman:** Worse than that, they would be good ones and we would all want to pursue them. We do have five more witnesses and it is now 10:20.

**Mr. Warner:** Perhaps we can make a note to discuss it later.



Mr. Chairman: Terrific. Thanks, Mr. Brudy.

Mr. Michael Lyons, Metro Toronto Labour Council.

Mr. Goetz-Gadon: Somebody was supposed to be talking from the Metro Toronto Labour Council. I do have a brief here, and I can give you a copy. However, they have a series of matters and would like to come back at a later date if possible.

Mr. Chairman: That would be next Wednesday. That is the last opportunity, unfortunately. If we may have that now so that copies can be given to members of the committee, and we will schedule your group for next Wednesday.

The 485-487 Duplex tenants' association; if you would, please, just into the microphone, your name?

Miss Woolonough: My name is Daisy Woolonough. This brief is presented on behalf of the tenants' association at 485 and 487 Duplex Avenue.

We firmly endorse the continuation of rent review in a strengthened form and wish to go on record as supporting other recommendations made by the Federation of Metro Tenants' Associations and presented to the committee on April 19, 1978. These will be enumerated at the end of our brief. Until December 1975, 485 and 487 Duplex Avenue were pleasant, homey dwellings, consisting of two buildings with 38 one-bedroom and 34 bachelor suites. A large percentage of tenants had lived there 10, 15 and 20 and even 30 years. It was home to them.

Rent increases were reasonable. Maintenance was adequate. Trust existed between landlord and tenants. We had unwritten security of tenure and a community spirit developed among tenants. There are stories told by long-term tenants of times when tenants pitched in to help with the caretaking duties. Tenants who were shareholders report the building paid for itself and made a profit.

The present owners took over in December 1975, continuing business under the name Apartment Management and Appraisals Limited. One of the first communications from our new landlord was a letter stating: "Our company has done its utmost not to increase rents in the last few years. We have preferred to maintain a high calibre of occupant as opposed to a transient type who is indifferent to his neighbours, his apartment and the building in which he resides. The letter ended: "We trust you will continue to bear with us in our endeavours to make

your home and our buildings a better place to live."

If one were to search the history of all human interaction, we probably could not find a more empty promise. Since that time we have been subject to a series of harassments which we will briefly document. There have been no improvements to the building, other than the installation of a fire alarm and intercom system which we believe was forced on our landlord when insurance costs skyrocketed because of the transient clientele the building now attracts.

Rents have been consistently increased, in the first year by 11 per cent and in the second year by eight per cent. This year our landlord has requested a 12 per cent boost. There has been little evidence these increases were justified. As well, increases continue to be awarded the landlord, despite the fact that projected expenditures and improvements have not materialized. Even with these increases our landlords were not satisfied. Rents to newcomers were illegally increased and had to be rolled back when the tenants association advised new tenants of the practice. The landlord began furnishing suites as tenants vacated in what we firmly believe to be an attempt to circumvent rent control.

The rate proved too slow for our landlord who then proceeded to intimidate and harass tenants to speed up the vacancy rate. In July 1977 tenants received a letter stating that the buildings were to be demolished and complete vacant possession was required. When this tactic didn't work, we were offered \$100. Then the ante was upped to \$150. The landlord successfully disgorged two-thirds of the occupants, many of whom were senior citizens on fixed incomes. Some of them found it extremely difficult to collect this money, although they moved within the given time. In one case, the tenant had to send a lawyer's letter to receive the \$100. Some tenants could not find affordable housing in the city and had to move into Ontario Housing Corporation buildings or other government-assisted housing.

The landlord continued to wage his campaign to dislocate tenants in unfurnished suites. As apartments become vacant, they are furnished and rented on a short-term basis at much higher rents. Because of this, we now have transient tenants who have disturbed our lives drastically. Some have had to be evicted. We have been without janitorial services for months. Garbage piled up in the halls and stairwells. No cleaning or snow shovelling was done. Unlit areas presented safety hazards. Incinerators overflowed.

Newspapers and cigarette butts tossed on carpets by tenants created fire hazards.

There have been at least six break-ins and two fires. We have had a steady stream of police, firemen and health inspectors through the buildings as the tenants' association waged a battle to get even minimal maintenance done. There is an argument popular among landlords that rent review causes buildings to deteriorate because of curtailed funds for maintenance. In our case, we have every reason to believe our building has paid for itself and returned an adequate rate of profit. We can only conclude that maximizing profits to an unconscionable degree was our landlord's motive.

We also understand the present owners purchased several other buildings at the same time as ours and some of these were experiencing losses. An additional argument we wish to make is that financial loss, financing costs or a change in financing costs, except where they relate to major improvements, should not be allowed as a factor in rent increases. This is an argument also made in the aforementioned brief presented to this committee by the Federation of Metro Tenants' Associations.

The association makes other recommendations.

Some of these are: That a housing tribunal be established to deal with landlord-tenant problems and that it should deal with all possible aspects—rent review, the Landlord and Tenant Act, housing standards, the establishment of a registry of rents. Some landlords do charge illegal rents; it happened in our building. Parties at rent review hearings should have the right to cross-examine. All information to be used by a landlord in support of an application should be filed at least two weeks prior to a hearing. Failure to do so can constitute a withdrawal of the proposed rent increases.

We also support these points: Rent increases within a building or a project should all take effect on the same day, one hearing being held annually; average allowed increases under rent review should not exceed the guidelines by significant amount.

In the light of our experience as tenants at 485 and 487 Duplex Avenue we wish to affirm that certain rights and protection for tenants must exist and be stringently enforced. We all want decent affordable housing, something we cannot be guaranteed of having if rent controls are lifted. Rent review must continue but its effectiveness must also be assured. I would just like to show a little photograph that one of the tenants took. This happened the night we had a meeting

in the hall when we first became involved in the tenants' association. Mr. de Klerk told us our rights, which we didn't realize, and it was after we had been told that the building was to be demolished. This man intimidated everybody so much that he put a demolition sale sign outside the superintendent's door in hopes of scaring off a few more of the tenants, which was a dirty trick I think.

**Mr. Chairman:** Co-operative Housing Federation of Toronto, Noreen Dunphy?

Mr. R. W. F. James?

**Mr. James:** I understand you have this before you. I think I can consider reading it or I can tell it to you.

The gist of what I want to say is that a clause in the Landlord and Tenant Act that was designed to protect tenants has actually worked to their very sad disadvantage. It happened several times on Lonsdale Road where we have lived for a great many years.

I began to wonder why or how tenants were thrown out of 29 Lonsdale. We had lived there for 23 years and then we had moved to 37 Lonsdale, where we had a duplex. For some time we had been living on the ground floor and have had tenants on the two floors above.

The house at 29 Lonsdale had been just a one-bathroom house when we bought it. We put in another bathroom—there are a few sinks—and then we sold it to people who made it into a very fine duplex. The tenants were paying very good rents, unbelievably high rents, but they were thrown out by people who bought the house and knew they could get possession. I didn't know how it happened. Nobody could tell me.

Then, further along at 64 to 72 Lonsdale Road, six tenants in a sort of U-shaped place, six-plexes they were known as, were all paying a little under \$500 a month for six rooms and two bathrooms. They were all thrown out. Nobody knew how. I couldn't find out how, so I wrote to Mr. McMurtry, the Attorney General. He wrote me back saying that under section 103(d) they are allowed to do this.

[10:30]

I started immediately to try and get people down at city hall to ask Queen's Park to change the law so that it would be necessary to prove that a building really needed the extensive alterations that people were giving it. In the case of 29 Lonsdale Road, it had new carpet, plumbing, as much insulation as you could put in it, two very nice kitchens, four bathrooms, a good garage that has been extended, two heated sunrooms—all those things were scrapped. Even the stairway



from the basement to the third floor was torn out; it was reduced to a shell. I called these people vandals.

We still held a mortgage on the property and they sent us some mortgage money from Richmond Hill under the name of Wycliffe. I acknowledged a couple of cheques by saying that I still thought they were vandals and hoped that they would drop \$40,000. I think that they probably are going to because it is still not sold. They bought it 22 months ago.

I appeared before the appropriate committee at city hall twice, once April last year and once about February of this year. I don't see much effort on their part to ask Queen's Park to make the appropriate change in section 103(d) which would require a landlord who is going to throw tenants out to first prove that the work they are going to do is really necessary and can't be done while they are in possession. I can't seem to get anybody to pay attention to me.

I have called the people in Parkdale who are legal people and helping tenants. They were very considerate; they thought I was the tenant. I explained to them that apparently it was possible to throw people out under section 103(d). So she gave me her name, I have forgotten it now but I wrote it down at the time. She went right on and on, sympathizing with me. I said that I was a landlord, I was an owner and that I was trying to—she said that she was very busy. I don't know about that sort of attitude at all; she didn't want to talk about it at all when she found out that I was an owner and a landlord.

In the case of 37 Lonsdale Road we had bought the place way back in the 1940s, always with the intention of converting 37 into a duplex, selling 29 and moving into the ground floor and having a nice revenue from the two floors above. We are not getting anything like a nice revenue because back in 1973, I gave a lease that was a little less than four years.

The type of landlord you have been hearing about tonight increased the rent—jumped it 10 to 30 per cent and everything. Then suddenly I come out on the market and I can't get any more than eight per cent or six per cent. I have been speaking to different people and they say, "Don't go before the rent review officer, he will tear you apart. They know all the questions, you don't know any. You knock yourself out. You spend thousands of dollars." So I am not doing it, but the real reason I couldn't get a buildup in costs is because the property is clear of the mortgage.

If a person had had a mortgage on for quite a lot of money, then had to renew it at

about two or three per cent more than it was previously, then you have got a great big increase in your running costs. It is just not the fact that oil has increased by three to four times and that taxes have gone up 70 per cent. You could really base your costs on a great big increase in the mortgage. Then I thought I would put a mortgage on the property. I could do with that. But they said, "No, that doesn't count. You have to spend whatever you put on." I thought that the property didn't need a major overhaul, so why do that?

I got advice from three different people in rent control—some I had known for a long time through real estate work. I had been a member of the real estate board since 1931, so I knew quite a few people to whom I could go. One of them said to change the second and third floor to make it two apartments. Then, hell, you could get as much for each apartment as for the whole thing right now. You would be bringing it back on the market as newly available accommodation.

We had been renting all the time to a large family. We had three generations in it for quite a long time at one time. I didn't want to take it off the market and make it one less place for a family because it has four bedrooms and two bathrooms and a great big garden, but I want to be able to get a decent increase in rent. I know what rents are in the area and I know from different places that we should be getting at least \$300 a month more. But I am told if our tenants moved, I couldn't get any higher rent because it is based on the 1973 lease that I gave to the people who are in there. That sort of jolted me.

There is still an alternative, and I mentioned this down at city hall. I could sell the thing. I could sell it to people who were in the ground floor many years ago, who know the place and who would like to come back and take over the second and the third floors and who would give us what would be a life-time lease. In other words, we could sell it, accept a very nice down payment, take back a \$100,000 mortgage and start to really collect on it, instead of not collecting on it because of this peculiar situation. But I don't want to do that either.

I end up by asking, "Is that the sort of development you want to promote?" The only person out of luck is the tenant. The person who bought it would be very glad to have it. We would start making money, and lots of it. Only the tenant would be out of luck. It would be all because of these bindings on me and lots of other small landlords who were trying to be decent types by giving



a several-year lease and who were quite content and happy in every way until they suddenly find that they are operating at a loss and can't do anything about it. I am asking that you read this carefully. Thank you very much.

**Mrs. Campbell:** I am a little curious, sir. There are two points, as I see it, in what you are saying. One is that you think the Landlord and Tenant Act should be tightened up in such a way that these tenants could not be thrown out.

**Mr. James:** I put it slightly differently. I said so the landlord can't throw them out. They can take this action and nobody can upset it. I'm sorry, it is the same thing.

**Mrs. Campbell:** What you are saying is that, if they want to do major repairs, you think there should be some clause that says they should have to prove that those repairs were necessary.

**Mr. James:** Really necessary, yes; because they weren't necessary at all at 29 Lonsdale and they really vandalized the property, which is still on the market.

**Mrs. Campbell:** The other point you make is as to your decision not to proceed to rent review. I take it that you have made the decision that you are going to abide by the six per cent in this year.

**Mr. James:** Yes. Actually, our tenants said, "Is there any provision for paying more?" This is one of the other points I made down at city hall. I think there should be a provision—I didn't put it on this sheet, but I should have—that would permit a co-operating tenant to agree to pay more, knowing perfectly well that rents across the road and on the next street and here and there are way more and that, to duplicate the property, he would probably have to double the rent if he could find anything similar. That is a point I wish I had put on the sheet: It should be possible, permissible or legal for people to arrive, in a friendly way, at a new rent which disregards the six per cent.

**Mrs. Campbell:** What you mean, I assume, is, that you are dealing with a tenant who is very much aware of his rights and that it is a voluntary offer on his part. One of the problems with your suggestion is that in some cases—not in your case, but in some cases—it might be very easy for someone to twist the arm of a tenant to get that kind of an agreement. That, of course, is the problem with that.

**Mr. James:** Yes, I see.

**Mrs. Campbell:** The two points are interesting certainly. That whole street seems to

have been undergoing some pretty great changes in all of the houses or an awful lot of them.

**Mr. James:** In February 1954 I invited people from 22 different streets to come to our house, 29 Lonsdale, to form what became known as the Deer Park Residents Association. One of the intentions was to make it a little oasis for people of moderate means. The ironic thing is that the biggest deviation from the original intentions happened in the very same house. The darn house was torn apart and rebuilt in a ridiculous way and has been on the market at about \$270,000.

**Mr. Chairman:** Thank you, Mr. James.

The Federation of Limited Dividend Tenants, Rosalind Waters.

**Ms. Waters:** I'm perfectly prepared to give my brief now, but it's getting really late. If you don't mind hearing one which is about rent review on a day which is scheduled to be hearing landlord and tenant things, then I am perfectly willing to do it another day.

**Mr. Chairman:** We are running out of days. Certainly you have got the best part of the committee right here.

**Mrs. Campbell:** That's nice to know.

**Mr. Chairman:** I am determined to outdo Mrs. Campbell.

**Ms. Waters:** I had scheduled a time for May 31 originally. Then I thought I had better come along tonight because I thought you would probably be getting pretty strict on keeping to schedule. You have provided three extra hearings. I thought you wouldn't be very happy to have then somebody coming along and talking about rent review.

**Mrs. Campbell:** I think we should hear her. We have heard so many. It's too bad that we did deviate in a sense, in view of the fact that we had made it clear that the last two days would be landlord and tenant. But you are here and we are here. The only thing is, could we have a kind of a highlight? You might lose some of your committee if it were half an hour or more of a presentation.

**Mr. Chairman:** If you are prepared, we certainly are.

**Mr. Epp:** It should be about 15 minutes and no more.

**Mrs. Campbell:** She has no such commitment made and don't put words in her mouth.

**Mr. Duksza:** How many more people are there? How many more presentations?

**Mrs. Campbell:** This is it? This is the last presentation?

**Mr. Chairman:** No, next to the last.

**Mrs. Campbell:** Is it landlord and tenant or is it rent review?

[10:45]

**Ms. Waters:** Shall I start?

**Mr. Chairman:** Yes, if you are ready. Would you please be kind enough, just for the record, to give your name and your association.

**Ms. Waters:** Okay, my name is Rosalind Waters, and I am representing the limited dividend tenants' associations within the Federation of Metro Tenants' Associations. We have been meeting monthly for quite a while now and within the federation we are quite organized as a sort of a separate entity with our own peculiar concerns and this brief is a product of those meetings. This brief is submitted by limited dividend tenants' associations with the Federation of Metro Tenants' Associations.

There are approximately 15 limited dividend associations which are at present affiliated to, or have ongoing contact with, the federation. We endorse the brief submitted by the federation on April 19, 1978, and wish only to express a few additional concerns we have which are peculiar to limited dividend tenants.

The green paper, Policy Options for Tenant Protection, proposes that limited dividend buildings be considered as a possible exemption from the rent review program. The grounds stated are that "rents on such units are subject to the control of Central Mortgage and Housing Corporation." It is quite erroneous to consider CMHC's approval procedure as a form of control at all. The level of rent increase approved by the CMHC has been a continual source of concern and amazement for limited dividend tenants.

I footnoted that in 1975, when limited dividend tenants first became organized—this was before rent review came into being—the limited dividend associations made a brief that they took to Barney Danson, who was then the minister responsible for limited dividend buildings. They proposed that "CMHC must be accountable to tenants in justifying any rent increase," so it has been a long-standing concern, the high rent increases which have been approved.

Rent increases over 20 per cent are regularly approved by the CMHC. Rent increase for limited dividend buildings rank among the highest which come to the rent review offices and are rivalled only by increases applied for in situations of sale. It

is usually the CMHC approved amount for which the landlord applies to rent review, knowing that it will be substantially reduced, but adhering to the practice of starting to bargain at a figure way above what can be reasonably expected.

CMHC has consistently approved rent increases higher than rent review will allow. The appendix to this brief shows the difference in rent increases approved by CMHC and rent review respectively on a number of limited dividend buildings. The appendix at the back takes eight limited dividend buildings and it compares the rent increases approved by CMHC and rent review. One thing I should point out is that on building D, in the fourth, fifth, sixth, seventh and eight columns, those figures should be sort of at the top of the boxes. They are relevant to the hearing in April 1977. That's just for your information.

We are aware that the method used by CMHC for calculating rent increases differ substantially from the method used in rent review. A contingency fund, the limited dividend, interest on the tenants' prepaid rentals and often a large unrestricted budget for administration costs are all examples of operating costs allowed by Central Mortgage and Housing Corporation and not by rent review.

Furthermore, CMHC deals with providing for capital expenditures in a very different way. Instead of allowing only expenditures which can be substantiated by a bill or an invoice, or for which a contract can be produced, CMHC arbitrarily allows a certain cost passthrough which passes into a replacement reserve fund. This procedure allows for a landlord to obtain cost passthrough for a fund which may not even be put to use.

Our concern about being subject only to CMHC's method of approval goes far beyond the recognition that its method of calculation allows certain extra items to enter into the rent.

The differences between CMHC and rent review approved rents are too large and erratic to be explained by the difference in method of calculation. We know that CMHC is satisfied with unaudited statements—statements which on occasion have contradicted more accurate figures submitted for rent review appeals.

We have every reason to suspect the rigour with which CMHC surveys an application for a rent increase. With the pressure which exists on CMHC not to let a landlord back out of the program or default on his mortgage payments, and the lack of obligation the corporation has to concern itself



with the tenants' welfare, it is not unreasonable to suppose that CMHC tends to give the landlord the increase he wishes.

Take one particular building in North York where rent increases remained relatively steady until June 1975, when a 22 per cent increase was charged. The building was not running at a loss and had no extra expenditures in that year. This is free market behaviour, to ask for an extra large increase immediately before controls come on. How could a method of rent approval—that's CMHC's method—which is supposed to be based on cost possibly have found this increase justified?

We have also experienced situations where CMHC has allowed costs not related to the operation of the building to be included in the rent calculation. In one instance this was the cost of running a community centre which was used by the local neighbourhood at large, and in another instance the cost of \$90,000 loan, of which approximately only a half could be shown to be required for the operation of the building. In both these cases rent review investigated the situations and treated the costs more satisfactorily.

The final, and perhaps most fundamental, inadequacy of CMHC's approval procedure, is the absolute denial of tenant participation. Not only is tenant participation not specifically catered for, but it has been categorically refused when requested. We know through our experience of rent review that a fundamental aspect of any review or control procedure is the tenant's right to participate and have access to all relevant information.

In the fall of 1977 tenants of a limited dividend building in North York, which is not subject to the rent review legislation—I think you've heard from them tonight, in fact, I know you have—arranged a meeting with their management and CMHC officials in order to seek information regarding their 23 per cent increase and to discuss possibilities of the increase being reduced. CMHC officials refused to give any information regarding the increase on the grounds of confidentiality, and refused to request the landlord to reveal any details.

In terms of both the rigour and effectiveness of CMHC's system of approval and the "behind doors" nature of the procedure, we find it quite appalling that the authors of the green paper should consider CMHC's role in the limited dividend program as grounds for our exemption from the rent review program. As low income tenants we are in desperate need of an effective and permanent control on our rents.

Presuming that limited dividend tenants do remain under rent review legislation there are a couple of areas that we would like to be investigated.

First of all, consideration of equity. Although the rent review program has approved lower increases on limited dividend buildings than CMHC, the increases allowed are still among the highest ordered. The appendix attached to this brief surveys the experiences of six limited dividend buildings at rent review. The size of the rent increases ordered on limited dividend buildings is well above average.

The main factor in these high increases is the large loss which a limited dividend landlord can invariably show through the financial data.

The rent review program has adopted a policy of allowing financing costs up to 85 per cent of the total cost of the building to be considered in the calculation of financial loss. Limited dividend buildings, however, were made an exemption to this practice. On the grounds that CMHC finances 95 per cent of the total cost of the building, up to 95 per cent of the financing costs is considered in the calculation of loss.

It is important to add here that in a few cases rent review hearings have produced information revealing that the CMHC mortgage covered more than 95 per cent of the total construction costs of the building. When I say total construction costs, I am including with the actual construction costs all the legal costs and all those sorts of fees.

Furthermore, two of the buildings surveyed in the appendix illustrate situations where refinancing by CMHC one or two years after the beginning of the building's life has decreased the landlord's equity yet further. In both cases, the additional financing costs have entered into the calculation of loss, unquestioned.

We therefore have a situation in which low-income tenants are already creating equity when the landlord has made a negligible down payment. As a limited-dividend tenant once said, "I think I could afford to build a limited building easier than I can afford to pay my rent."

In each of the examples in the appendix, consideration of financing up to only 100 over 15 times the amount of equity held in the building at the time of the hearing would have reduced the annual principal and interest payment by an amount larger than the total loss allowed. The implication of this is that if with limited dividend buildings it was required that the landlord's equity had to constitute 15 per cent of the amount of



financing cost that was allowed, in many cases the huge losses would just be obliterated.

This indicates the huge effect on the rent increase of allowing all financing costs up to and above 95 per cent of the total cost of the building. We recommend that if in the future financing costs are being considered in the calculation of a rent increase, the same percentage equity be required of a limited dividend landlord as of any other landlord.

No tenant should have to create equity for landlords who have such little money in the building. But this is exactly what limited dividend tenants—low-income tenants, that is—have been singled out to do by rent review policy.

Next point: losses and taxation gains. Often enough, limited-dividend tenants have gone back to rent review a second year, only to find that, despite a large increase the previous year which was granted in order to absorb a large loss, the landlord is again showing a large loss. I know in some cases an appeal board might amortize the loss over two years, but there are cases where that hasn't happened, where a total loss has been passed through in the first year at rent review, and again the landlord is showing the loss the second year around.

This situation has compelled limited-dividend tenants, probably more than other tenants, to question what advantage beyond large increases at rent review may be gained by sustaining losses on apartment buildings.

We know that the small business deduction provides for a reduced rate of taxation on an annual rental income which is less than \$150,000. In Ontario the effective corporate tax rate of 48 per cent is reduced to 24 per cent. It's impossible to know all the buildings and respective rental revenues belonging to each company which owns a limited-dividend building. However, what limited knowledge we do have of the size of companies owning some limited-dividend buildings suggests a strong possibility that the losses on the limited-dividend building function as the means by which the total revenue of the owner finally falls below \$150,000. Even if this is not the case, losses constitute convenient tax write-offs.

[11:00]

Limited-dividend buildings appear to show losses relatively easily and, hence, function as tax write-offs more frequently than other buildings.

We face a situation in which lower-income tenants are paying for losses brought to rent review, due to the rent review officer's authority to bring the landlord to breakeven point

within one year. Simultaneously, these losses are also profiting the landlord in the sphere of taxation. It is doubtful that a landlord in this situation leaves a rent review hearing seriously intending to do away with the loss before the next year's hearing.

The recommendations of the Federation of 'Retro Tenants' Associations regarding the elimination of financing costs from the calculation of financial loss would dissolve both the situations we have described, in which the rent review process is particularly hard on limited dividend tenants. In particular, we want to underline our endorsement of this recommendation.

Mr. Warner: Maybe it's my faulty memory, but somewhere in your brief you mention that the green paper made a statement about removing CMHC from the rent review program. Is that correct?

Mrs. Campbell: Limited dividends.

Mr. Warner: The limited dividends rather.

Ms. Waters: Yes, that's right. It's listed as a possible exemption.

Mr. Warner: It's listed as one of the possible exemptions. I can understand why they want to do that.

Ms. Waters: The reason they did is that the rents are already controlled by CMHC.

Mrs. Campbell: They're not controlled.

Ms. Waters: They're not controls.

Mr. Warner: The real problem that comes out of this, at least from my limited experience in trying to handle some problems which involve CMHC, is the complete absence of any concern on the part of CMHC. It is very difficult to work in that environment. I'm wondering if the consultants need to take a look to see if there are specific problems that arise when we try to approach the problem of CMHC, since they have a different basis of calculation. I think it's ludicrous to remove the limited dividend from the rent review procedure.

What happens when we intrude into that system that's been set up? What are the problems that arise from that and how do we handle it? I suppose there are several ways of doing it and maybe that's what we have to find out. Maybe one of the things we have to explore is getting CMHC to conform to the standard that's been set out for the province of Ontario. That may be an overwhelming task.

If that's not the case then there has to be some other way. It would be sheer nonsense to remove limited dividend buildings. Perhaps the government wishes to do that because of the unhappy experiences they've had

with CMHC. I don't know. Maybe there's some legitimate reason. They're tenants and they need protection. That's pretty simple to understand, even the government can understand that.

Maybe Mrs. Campbell can comment on that because she has probably had more experience in this line than I have, pertaining to the point I raised with the consultants. I think that's a matter on which we're going to have to grasp and come up with some concrete proposals.

**Mrs. Campbell:** On the last point, I've already asked our consultants to look into this whole area of limited dividends to the extent that they can in the time that is left to them. It strikes me that on the question which is raised at the end of the brief, perhaps our consultants could at least get hold of the kind of agreement which is made between CMHC and the developer. I'd like a lawyer who is working on it to tell me, but I think that it is not possible for us to vary that agreement. We have to remember that the agreement is a very complex one.

The rate of return varies depending on what year it was entered into, because I think seven per cent yield is the highest, if I'm not mistaken. I think in my riding it's a seven per cent yield. There are some as low as 5.5 per cent.

I'd like to see us specifically look at the agreement. You probably won't get one, but you'll get a pro forma kind of agreement. We'll get that and let's have it analysed. It's nice that we have the AG's department sitting in because they can give us some legal advice as to how far we are able to go in intruding into the agreement between those two parties.

**Mr. Walker:** I suspect there's a jurisdictional problem.

**Mrs. Campbell:** It isn't a jurisdictional problem; it's the question of the passthrough. I would think that since there is provision for certain passthrough within the contract we may be up against the velvet in trying to vary that through the rent review process. However, it certainly should be tried because, as I've said before, to me the limited dividend situation is about the worst of any of them and trying to get the facts, as I know from the Barbara experience, it's just been mad. You can't get at the facts.

**Mr. Warner:** In terms of dealing with what's right, and it's certainly important, if we end up setting up some sort of rental commission which is going to deal with all of the problems of rents, maintenance, et cetera, we have to understand what are the

legal protections and responsibilities in this triangular arrangement between the owner, CMHC and the tenant in the province of Ontario. That's what we've got to clearly understand before we can attempt to resolve the problem.

I remember one very simple, straightforward case where I got involved and tried to sort it all out. I could not reach a resolve with CMHC and I organized and participated in a picket of the owner's home, because CMHC just took itself out of the picture entirely at one point. They reached a point where you couldn't deal with them. They said: "We are not going to have anything more to do with it." Who knows what the legal responsibilities are or where the lines are? I think we're going to have to get some answers before we can handle it.

**Mr. Chairman:** I don't minimize the importance of it. I just think it's the sort of thing that on Monday night we can and should address ourselves to, Ms. Waters is here, a gentleman from the Village Green is here—

**Mr. Duksza:** It's no longer Monday night but Tuesday night. Are you back to Monday night again?

**Mr. Chairman:** I think it's still Monday night.

**Mr. Duksza:** I thought Mr. Walker changed that.

**Mrs. Campbell:** Mr. Walker better not change things too much.

**Mr. Warner:** Mr. Walker's meeting night is on Tuesday.

**Mr. Duksza:** I'll meet with him.

**Mr. Warner:** We can settle that after.

**Mr. Epp:** There was another problem, Mrs. Campbell, which came up after you left. There was a suggestion that we have Tuesday night, but apparently that doesn't work out so we'll go back to Monday.

**Mrs. Campbell:** Thursday is the only legislative day in the House and I think some of us have responsibilities in some of the legislation.

**Mr. Chairman:** You see, Ms. Waters, we've been listening to you and now you're listening to us. We can go on forever.

**Mrs. Campbell:** I think before we do anything we have to get the facts on what the agreements say, because I know they vary. The provision for elevator service is different in different agreements. There are all sorts of variations besides the limited yield. Can you get something on that?

**Mr. Feldman:** Certainly.



**Mr. Chairman:** Mr. Norman Rubin, Village Green Tenants' Association. You've been very patient.

**Mr. Rubin:** So have you all. Thank you.

I am, in fact, Norman Rubin, and I am representing the Village Green Tenants' Association. In view of the hour, I'll race straight through this and perhaps we'll have energy left over for questions. The language is somewhat soporific; the ideas, I hope, are more engaging. I beg your indulgence.

As you can see by the first paragraph, this is an unedited copy of a letter our association sent to the Minister of Consumer and Commercial Relations (Mr. Grossman) in response to the red book called the green paper.

The Village Green Tenants' Association believes that it is possible to devise policies which are both fair to tenants and feasible to implement.

These policies should embody the following seven points:

1. Extend rent controls beyond 1978;
2. Use a property-tax-reform reduced base to calculate post-1978 rent increases;
3. Distinguish between old and new apartment buildings in establishing a policy of long-term rent control;
4. Phase in any program of rent decontrol over six years, if any such program be considered essential;
5. Include action to increase the supply of accommodation;
6. Reduce building costs to the extent consistent with other social priorities; and
7. Improve affordability through shelter allowances.

I think you can see already we have accepted a great deal more of the green paper than many of the other speakers I have heard this evening. We have also accepted some of its language, as you will see.

"A brief statement of our reasons for suggesting policies along these lines follows"—and they follow, as you can see, point by point.

1. Extend controls beyond 1978: An extended period of very low vacancy rates created the need for controls on rent increases in 1975, for various reasons. Since then, the vacancy rate in Metropolitan Toronto has not improved; it has worsened to about one per cent, increasing tenants' vulnerability.

The termination of rent control would result in an immediate jump in Metro Toronto rents so large as to impose widespread hardship and dislocation. Rents would rise above the full-cost recovery level theoretically necessary to stimulate new buildings, and be reduced to it only after a period of some

years as newly completed apartments came on to the market.

Effective rent control must, therefore, be maintained after the expiry of the current act, December 31, 1978.

2. Use property-tax-reform reduced base: The Ontario government has recognized that tenants pay more than their fair share of property taxes. The elimination of this inequity will require that apartment property taxes be reduced and that savings be passed on in full to tenants. To ensure that the benefit for tenants intended by property tax reform in fact reaches them, allowable post-1978 rent increases should be calculated from a base of rents in 1978 minus the property tax reduction attributable to property tax reform. We note that a fully equitable reform of the property tax in Metropolitan Toronto could ease the transition from the current policy of rent controls to subsequent policies of continued tenant protection.

The VGTA therefore views with great concern suggestions in the white paper on property tax reform that "some alternatives for Metro" be devised which might result in Toronto tenants not receiving the full reduction in property taxes which equity in taxation suggests is due them.

3. Continued controls on already-constructed buildings has social merit: The incentive to build new buildings depends on rent levels in new buildings. As long as prospective rents in new buildings exceed costs plus profit, new buildings will be built, even if the rents in old buildings are held down by controls. It may therefore make sense to maintain controls on buildings built before 1975, while not controlling buildings built subsequently.

Allowing rents to rise in old buildings does not provide the social benefit of an increased incentive to build. That, obviously, depends on rent levels in new buildings. But it would hand landlords an increase in building revenue, and hence a capital gain, entirely at the expense of tenants.

The transfer of funds from tenants to landlords resulting from increased rents in old buildings would be large. Using the figures presented in the green paper, eliminating the cost-revenue imbalance would require a 32 per cent increase in rents from \$307 to \$406 per month for a two-bedroom apartment.

With about 30 per cent of Ontario tenants paying in excess of 25 per cent of their income on rent, an increase in old building rents of this magnitude would impose widespread hardship with no offsetting social benefit, a point you have heard too many times already perhaps.



4. Any decontrol program should be phased in over a six-year period: We believe there is a strong case for maintaining rent controls on older buildings, as outlined above. If it is nevertheless decided to decontrol rents so as to eliminate the cost-revenue imbalance between old building revenues and new building costs, this should be done through a six-year period of gradual decontrol.

[11:15]

From the property tax reform lowered base in 1978, rents should be allowed to rise, assuming this is found necessary, at a rate which, if continued for six years, would bring them to the free market level. It is unnecessary to eliminate the cost-revenue imbalance in less than six years to provide an incentive for new building construction since it takes up to that long to plan, approve and build a multiple-unit building, according to the green paper. By the time the apartment unit is in place, even in the top one fifth of the old buildings, rents will cover new building costs plus profit.

5. Government actions to increase supply: The low vacancy rate in Metropolitan Toronto indicates that an increase in the supply of rental accommodation is called for. If an increase in rental supply does not seem to be forthcoming once the ground rules for continuing tenant protection are laid out, the government should demonstrate confidence in its own policies by taking action to increase building. I might add here that that may seem paradoxical. The idea there is that presumably only short-term action will be necessary to overcome some sort of psychological hurdle or some crisis in confidence of these most timid beasts known as investors.

Public policies should enlarge the alternatives open to the people of Ontario by increasing support for co-operative and non-profit housing, which now falls between the gaps. There are many incentives for homeowners and many tax breaks and other favours or bonuses for owners of private housing. There are breaks for builders of apartment buildings. It seems that co-op housing and non-profit housing falls through the cracks.

6. Government action to reduce costs: The green paper lists a few ways in which building and land costs might be reduced. A program of land banking might further reduce land costs.

7. We can improve affordability through shelter allowances: We do favour shelter allowances and feel that a shelter allowance program would directly tackle the problems of affordability in an efficient manner. There has been widespread use of such policies in

Europe. The shelter allowance program in British Columbia, which I understand is still in effect for the elderly, indicates that it can be implemented for part of the population at least, to begin with.

Mrs. Campbell: There are a couple of things. First of all, on the point of the passthrough of any decrease in taxes resulting from reassessment or from whatever other means, in your opinion do you see any other way to guarantee to tenants the passthrough of that benefit except within the rent review process?

Mr. Rubin: I think getting the passthrough or the change to tenants in the first year is easy. You can mail them a cheque. The problem is how does the landlord then reduce costs, because the landlord will presumably be paying lower taxes on his property. How do you ensure that that doesn't evaporate after the first year? That's why we suggest this method. Having found this method, we didn't look for another one. I guess we're open to suggestions.

Mrs. Campbell: The question might be deemed to be somewhat rhetorical, but the idea was to get this on the record because with all the work that has been done so far there is no recommendation anywhere of a passthrough method to the tenants. The only one I can see that would at least ensure that is through the rent review process. I just wondered if you had any other suggestions for the benefit of the committee.

Mr. Rubin: No. I think you're absolutely right that should rent review disappear more or less simultaneously with this windfall to landlords there's no way tenants would ever see a penny of it. I think that's clear to anybody.

Mrs. Campbell: We've already heard from at least one or two landlords—correct me if I'm wrong—who indicated they really couldn't pass through any such savings because of their others costs. Is that not correct?

Mr. Chairman: That's my recollection.

Mrs. Campbell: So it's a very serious problem. You've referred to the particular problems in Toronto, in the market value assessment situations and you know that I've suggested that you might look at the condominium cases in order to get something moving, quite apart from the market value assessment because the condominium arguments certainly seem to me to make it abundantly clear that tenants are seriously overassessed.

Mr. Rubin: Yes, I think one reason we haven't pursued that is that the white paper

on property tax reform was taking that argument into concern, no doubt prompted in part by the court case that you are referring to.

**Mrs. Campbell:** Except that they're not trying to do anything about it.

**Mr. Warner:** There's no commitment to pass it back.

**Mrs. Campbell:** As a matter of fact there's absolutely no reference to a passthrough policy that we can see, apart from rent review.

**Mr. Feldman:** Mrs. Campbell, you're quite right. Explicitly, the April 19 white paper, not to be confused with the January 4 white paper, specifically says that—

**Mrs. Campbell:** That's right—they can't.

**Mr. Feldman:** —the passthrough mechanism not be allowed and that if rent controls continue perhaps they might be considered as a category under that, but it's quite explicit on that point.

**Mrs. Campbell:** That's right, that's the second one.

**Mr. Epp:** And the reason for it was that they didn't want to add one more bureaucracy if rent review was to continue.

**Mr. Feldman:** The reason for the passthrough was—I can't remember the exact words, but the burden of the argument is that it is too difficult to devise a mechanism.

**Mrs. Campbell:** That's right. You have different tenancies at different times, and who do you pay, that kind of thing; that's the sort of thing they were looking at.

**Mr. Warner:** You'll have to try to find some mechanism in the rent review procedure.

**Mrs. Campbell:** I'm just working that out, because we're contemplating whether or not rent review continue.

**Mr. Duksza:** Tell us what you're contemplating. We've already made a decision.

**Mrs. Campbell:** You may have made a decision; I'm just saying the committee hasn't, and I don't know what the committee and majority will do. I know where I stand but I don't know where everybody else stands. I don't presume to write the committee report until we're all together to do it, but I just point out that, as a case in point, the inequity is acknowledged publicly, that tenants are overassessed and yet no passthrough method is devised. So I think it's perfectly justifiable to go to rent review and say: "All right, prove to us that you have a right to claim in advance the result of an assessment and a

taxation based on an assessment which may be revised by the time that actual tax comes."

I think you're quite correct. We can't any longer allow landlords to come to rent review and say: "Of course, taxes go up every year so rents must go up every year." It should start to reverse the procedure to at least make the point.

**Mr. Rubin:** Unfortunately, there are problems in Metro Toronto. The size of the tax base and the large number of rental accommodations in Metro Toronto means that should everything be equalized in the terms of the original white paper, which seems to set as a priority that the assessment rates not go up for private houses. There is not much else in Metro Toronto so—

**Mrs. Campbell:** Wait a minute, I think what we have to bear in mind is that the private houses would bear an unequal burden, not just because of that but because breweries and the rest, which call very heavily on municipal facilities, are to be reduced in their assessment. That is the thing that really puts the thing out of whack. But you can't make the tenants pay an undue burden, that's the problem; and I don't see any other method to pass along the savings, except through rent review at this point.

**Ms. Harriman:** Your savings would have to be from your base rent, not from the increase created by the rent review program.

**Mrs. Campbell:** You won't get into Hansard with this unless you speak into a microphone. You were going to come next Wednesday. I'd like you to go into this for the benefit of the tenants next Wednesday, as part of your discussion with us—as a rent review officer.

**Ms. Harriman:** Do you have these hearings held in the evening?

**Mr. Duksza:** This is the last evening.

**Ms. Harriman:** Then I may have a problem because I—

**Mrs. Campbell:** You may be sitting.

**Ms. Harriman:** That's right; I believe I am, next Wednesday.

**Mrs. Campbell:** Oh, dear. Are we starting at 10 o'clock in the morning?

**Mr. Chairman:** Yes.

**Mrs. Campbell:** Do you have a problem in the morning?

**Ms. Harriman:** I think I have a hearing in Mississauga at 1 o'clock.

**Mr. Chairman:** Maybe we could get her on first.



**Mrs. Campbell:** Could we sort that out, Mr. Chairman? Because I think it's important that she be here to help us.

**Ms. Harriman:** I could easily leave from here, say at 11:30, and be at Mississauga by 12:30 I would imagine.

**Mrs. Campbell:** Not if you go the routes I go. I get lost if I go to Mississauga, invariably.

**Mr. Chairman:** What we could do—this morning we actually started at 9:30; if we could perhaps start at 9:30 and put her on at 9:30.

Thank you, Mr. Rubin.

**Mr. Warner:** We're finished with the presentations, I would imagine. Have we determined whether we're meeting Monday or Tuesday?

**Mr. Chairman:** I think it has to be Monday, simply because every other day does get worse.

**Mr. Warner:** At what time?

**Mr. Chairman:** 6 o'clock.

**Mr. Warner:** And it's assumed that wherever we're meeting, which is for the purpose of doing the business of the committee, Hansard will be provided?

**Mr. Chairman:** I don't know whether—

**Mr. Warner:** Some of the rooms are already wired.

**Mr. Chairman:** Yes.

**Mr. Warner:** We can move into one of the rooms being used for estimates.

**Clerk of the Committee:** Monday night we won't have any trouble.

**Mrs. Campbell:** Just a minute. Why are we meeting? Aren't we meeting to hear from our consultant an expansion of the paper we discussed today at noon?

**An hon. member:** Right.

**Mrs. Campbell:** Very small parts. I have no objection. I just—

**Mr. Warner:** I don't see any reason for this committee to end up with in camera meetings. There's no purpose to be served in that. The committees normally are open public meetings. People can observe. Researchers can observe.

When a committee is sitting to deal with things, motions may be put forth—I know, that should always happen in the presence of Hansard, that's just a basic way to operate. I'd be very concerned if we deviated from that practice.

**Mrs. Campbell:** We deviated this morning at breakfast.

**Mr. Warner:** We did have a delightful breakfast together.

**Mr. Walker:** Hansard wasn't present nor did they miss a great deal.

**Mr. Warner:** No, but we agreed ahead of time that it was going to be an informal discussion and it wasn't going to deal with any substantive matters.

**Mr. Walker:** Isn't that what next Monday night is for?

**Mr. Chairman:** Yes.

**Mrs. Campbell:** I thought we were continuing or giving to Mr. Feldman the opportunity to develop his paper. Unfortunately this morning the Attorney General took over. I have no objection to it being open or closed. It's just that I can't understand the difference between breakfast this morning and dinner—

**Mr. Warner:** Maybe I misunderstood what the purpose of the breakfast meeting was. I simply took it to be an informal matter so that the reporting—

**Mrs. Campbell:** That's what I thought this was—so that we could get—

**Mr. Warner:** Maybe Mr. Feldman can explain.

**Mr. Feldman:** Our purpose in asking for the meeting this morning was to get some general direction from the committee on issues that there was consensus on and that there was a disagreement on, so that we could then go away and begin the delightful task of preparing the first draft for you to begin going over.

My understanding of Monday is it will be to continue that process because we just really got started on the rent review part.

[11:30]

From my standpoint, of course, it really doesn't matter to me. I have no say in it, one way or the other, but that was the purpose, so that we could get some direction, some general idea in broadbrush form. We didn't contemplate any of the issues coming to a situation where you would be taking a formal stand or a vote, just some general indication.

**Mr. Duksza:** What kind of indication can we give you, if you already know potentially there is a split? What are you asking for, a major discussion on where we stand? That would be impossible to do in two hours. Mr. Rotenberg would move every motion out of order, or whatever he does.

**Mrs. Campbell:** Mr. Rotenberg supported the order of the resolutions.



**Mr. Feldman:** But without at least, as the lowest common denominator, an agreement to disagree on a variety of issues, you have left us at the present time in a position where, really, we either start covering the moon or pack our bags.

**Mr. Warner:** That is why it is extremely important, Mr. Chairman, that we have the assistance of Hansard, because that is the parliamentary record.

**An hon. member:** Oh, Hansard be damned.

**Mr. Duksza:** No. Hansard is important.

**Mr. Warner:** I am sorry that you have that kind of opinion about Hansard, but that happens to be the parliamentary record of our activities.

**Mr. Walker:** This is not evidence that he is giving.

**Mr. Warner:** You misunderstand. We are dealing with an extremely important issue.

**Mr. Duksza:** It helps in making later decisions. I want it recorded.

**Mrs. Campbell:** If we are going to do that, we have to go back to this morning and record the position on the affordability question which we did not record at breakfast time. I happen to be in the minority on that one. I want that affordability question out in the open.

**Mr. Duksza:** Then why don't you bring a motion the way I brought a motion?

**Mr. Warner:** That is why it is important we have Hansard available to record these discussions which take place between members of the committee. I think it would be inappropriate to proceed on an important issue like this in a committee without that assistance. It is a pretty fundamental item to the Legislature.

**Mrs. Campbell:** As far as I am concerned, I don't care one way or the other. I prefer open meetings where possible. I just don't see why it was different at breakfast compared to 10:00 a.m. on Monday.

**Mr. Duksza:** There are four more major sessions. They must remain open because they

are becoming the most important if we are going to focus on where we agree or disagree. That is a basic political matter.

We are moving away from the hearings and on to making decisions. We have got to have those guys here to record it. If we are going to instruct Lionel Feldman in what to do, then we have to have it recorded. I don't see that—

**Mrs. Campbell:** Well now that you have declared yourself as a chauvinist, we do have women on hand, you know.

**Mr. Duksza:** Don't distract me, Margaret. All I want is to have it recorded, with guys or gals, I don't care.

**Mr. Chairman:** Nobody on the committee is opposed to public meetings and public records, because that is the essence of the business.

**Mrs. Campbell:** I am, no more breakfasts.

**Mr. Warner:** You don't like breakfast. I love breakfast.

**Mr. Chairman:** I think there was a consensus on the committee, perhaps a misunderstanding, that Monday night's dinner meeting would not be recorded.

Let's do this: let's ask Hansard if they would be available in room 228 at 6:00 o'clock and we will just have a general discussion about it. If it is the feeling of the committee that it not be—we will discuss it then and that discussion will be on the record—we can pursue it then Monday night.

**Mrs. Campbell:** You can't take a vote now?

**Mr. Chairman:** We can't.

**Mr. Warner:** We can't take a vote but it is an important item and I would like to know before then.

**Mr. Walker:** That is not evidence.

**Mr. Walker:** That is not evidence. I think that's the appropriate—

**Mrs. Campbell:** Well, we will determine it Monday.

The committee adjourned at 11.34 p.m.

## SPEAKERS IN THIS ISSUE

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Campbell, M. (St. George L)  
Charlton, B. (Hamilton Mountain NDP)  
Duksza, J. (Parkdale NDP)  
Epp, H. (Waterloo North L)  
Kennedy, R. D. (Mississauga South PC)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Rotenberg, D. (Wilson Heights PC)  
Samis, G. (Cornwall NDP)  
Walker, G. (London South PC)  
Warner, D. (Scarborough-Ellesmere NDP)  
Williams, J. (Oriole PC)

### Witnesses:

Adams, E., Cawthra-Mulock Tenants Association  
Bailey, E., senior citizen, The Jane Wilson Tower  
Black, R., 11 Fontenay Court Tenants Association  
Brudy, N., 20 Graydon Hall Tenants Association  
Caswell, J., 286 Finch Ave., W. Tenants Association  
Dobranowski, J., Cean Investments (Oshawa) Limited  
Goetz-Gadon, S., Metro Toronto Labour Council  
Harriman, A., Tenant Representative, Residential Premises Rent Review Board  
James, R. W. F., real estate broker  
Jones, P., North Jarvis Community Association  
McVea, J., President, Cawthra-Mulock Tenants Association  
Rubin, N., Village Green Tenants Association  
Scott, E., 521-23 Finch Ave., W. Tenants Association  
Waters, R., Federation of Limited Dividend Tenants  
Woolonough, D., 485-487 Duplex Tenants Association

### Assisting the Committee:

Feldman, L. D., Lionel D. Feldman Consulting Limited, Toronto







No. G-18

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### **Second Session, 31st Parliament**

Wednesday, May 31, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 31, 1978

The committee met at 10 a.m.

## TENANT PROTECTION (continued)

**Mr. Chairman:** Members of the committee, ladies and gentlemen, I am sorry I am late. If we could begin now, Mr. David Nowlan, sir, if you would approach the microphone and identify yourself for the record and begin the presentation of your brief. I would ask you, and following witnesses too, to speak up. Because of the air-conditioning today it's going to be a little bit difficult, but if you could speak up, please.

**Mrs. Campbell:** We really need it, do we?

**Mr. Chairman:** Let's maybe click it on and off as the day goes on.

**Mr. Nowlan:** My name is David Nowlan. I am a professor of economics at the University of Toronto, resident of the city of Toronto.

I have, by way of opening remarks, only a short and rather informal presentation. I would like to outline for you a few of my views in abstract, at least, and then if you feel so inclined we can discuss a few points that arise either out of my views or other issues that you might have been considering while you have been sitting.

I have recently done a fair bit of research and writing on land market problems. In particular, I have recently been working quite closely with the federal-provincial land task force, and in speaking to you I can draw in at least an informal way on some of the information and work that has come out of that particular task force.

I thought I might begin by reviewing very briefly the climate of the housing and land market in the post-1972 period. Across Canada in 1972, or in some provinces in 1973 and very shortly thereafter, residential land prices started to take off and we had for a three- or four-year period virtually across the country—even, surprisingly, in Quebec, although somewhat moderated by demographic changes in Quebec—a very rapid escalation of property prices and especially housing prices.

That meant through until about 1975 in Ontario, maybe into 1976, the owners of residential properties were experiencing rapid

capital gains in the expectation of even higher returns in the form of rents or capital gains in the future and some large portion of the earnings on real estate viewed as a capital asset in that period came from capital gains and not rental returns. As a consequence of that, rents tended to be low relative to the return that one would have expected on an asset having the market value that residential real estate property did have.

**Mrs. Campbell:** Pardon me, Mr. Chairman, is that door locked? I think somebody has been trying to get in. Oh, it isn't. I'm sorry.

**Mr. Warner:** Maybe it should have been.

**Mrs. Campbell:** I'm sorry, sir.

**Mr. Nowlan:** That's fine. I would like to say I would be happy to be interrupted at any point while I make my initial presentation. As I said, it is quite informal and if for any reasons you want to ask for clarification or extension we can do it now as well as later.

The point, in any case, that I wanted to draw to your attention is this, in abstract, that the returns that private owners of capital assets like a residential property make can and frequently do come in two forms. One is the net revenue, the revenue after costs that these owners get from renting their property. If it's a residence occupied by the owner, that return is in the form of ownership use, in that form, plus possibly capital gains. Each year there may be an appreciation in the capital value of the property. Those two added together constitute the return on capital property.

If you're in a period when the return is largely in the form of capital gain, there is no necessity to get that return also in the form of net revenue or net rents in order to make a satisfactory return on a capital asset. But when the expectations of further capital gain diminish or disappear, the return has to come in the form of cash flows, of rents, less operating costs.

What happened then, in summary, in Ontario and in other provinces in Canada—it happened a little earlier in Ontario—was that we went through a period leading up to the introduction of rent-price controls in Ontario in which large parts of the return on residential real estate were taken in the form



of capital gains, year by year increases in the value of the property.

We were beginning in 1975 to reach a point at which expectations of further capital gains were starting to diminish. Owners of rental properties started to see the need to get their returns in the form of rents, rather than further capital gains. It was about that point in mid-1975 when we started to witness more rapidly rising rents in Ontario. Those observations led in part to the rent review act that was promulgated subsequently.

As it happened, there was some overshooting of the capital value of residential property in the market. Except for the west, which has been continuing to experience very dramatic economic growth, that overshooting of capital value was quite general. You will have noticed, I'm sure, that since about 1976 the values of residential properties have not risen as rapidly as the general price level. In other words, the real values, the inflation-adjusted values, have diminished somewhat over the last two or three years.

This is a fairly common happening when you have a speculative boom, an asset revaluation—it tends to overshoot a bit. That meant the kinds of rents that might have been expected in the absence of rent control in the post-1975 period would not have been as high as you would have predicted had you simply looked at residential real estate values at the end of 1975 and said: "Ah, to get a reasonable rate of return on those values, rents have to be thus and so high."

In fact, because the capital values overshoot the mark there has been some subsequent adjustment, and in the absence of rent control I would have expected rent levels not a lot different from the rent levels we actually experienced, even though those rent levels frequently do not provide what one might think of as a standard, normal rate of return on the capital value of residential real estate.

We had a speculative boom in residential real estate, an asset revaluation, through until about the end of 1975 or early 1976. It overshoot the mark a bit and we've had some stabilization in residential real estate values, apartments and houses alike, in that period.

My interpretation of the post-1975 period, the period since rent review was enacted in Ontario, is that the production of dwelling units in general and of rental units in particular has not been much influenced by the Ontario legislation. There may well have been some reduction in the number of rental units that came on to the market in the post-1975 period below what would have happened without rent control in Ontario, but I don't

think we can attribute all of the fall that we have actually seen in rental accommodation to the rent review act itself.

If you look at the overall production of apartment units, of multiple unit structures, you will see that in fact the development of these units has grown significantly in recent years. Most of those, a greater and greater part of those, have been condominium units. This itself is a reflection, I believe, not of the rent control legislation but of the fact that during the period up to 1976 people were experiencing rapid capital gains and more and more people wanted to get in on the capital gains act.

This is one of the reasons that condominium ownership became so popular, although not as popular as some builders of condominiums would have liked. It was an attempt to take advantage of capital gains, which virtually every owner of residential real estate was experiencing in that post-1972 period. The fact that there are condominium units going without buyers now is, of course, a reflection of the fact that those capital gains have tapered off. The expectation of further capital gains is much below what it was in the 1972-75 period, so that now the returns to the ownership of condominium units have to be in straight use value. The price of those units has to be adjusted so that the use value is a reasonable percentage of the capital value. In general that has meant some downward adjustment in real value of these units.

It may be something you want to discuss in greater detail later. I base my view that the rent control act itself has had little effect on the market in Ontario on a couple of other observations; one is the buildup recently of completed and unoccupied dwelling units in the Toronto area. This is signal for the single-family dwellings. In other major centres in Ontario it is more dramatic for multiple unit dwelling, but there does seem recently to have been some substantial buildup of completed but unoccupied dwellings. I am basing my information on CMHC data. I haven't seen any better yet. I am prepared to be convinced if you have better data. However, as I say, you may want to explore this a little further with me.

This, however, is not to say that controls in general do not have significant effects, even potentially devastating effects, in the housing market. The general view with respect to rent control and the extension of rent control legislation that I would like to urge upon you is that although we have been lucky in Ontario in the last two and a half or three years since introducing rent control, we may not be so lucky if we were to extend rent control in

its present form over the next several years.

We may find, as I am sure you are finding, that it is increasingly difficult to get rid of the animal the longer it has been around. Secondly, it can have serious supply effects. It obviously depends on the kind of maximum annual rent increase that is permitted without review and so on, but one is never certain exactly where the line between a maximum increase that has a serious effect and one that doesn't is. Markets change with inflationary changes over a period.

What happens in general with rent control is that the supply of rental units is reduced. Although I don't think that reduction has been serious in the last few years, there may well be some point where it is serious. The effect of reduction of rental units is to make the value to users of rental units of each additional unit higher than it otherwise would be while making the rate of return to the suppliers of those units, the builders, lower than it would otherwise be. In other words, there is a difference between the value of the unit to those people who are looking for units, who are residing in units, and the price that suppliers are getting.

[10:15]

This creates a distortion in the market and ultimately a loss. The loss I am sure you have heard about from people who oppose rent controls—which is my general inclination—so I won't dwell on it.

The loss generally takes the form of extended search time for apartment units; sometimes the payment of things like key money or illegal forms of payments either to old tenants or to owners of buildings; frequently, the tacit bridging of conditions of rent control legislation, especially where tenants themselves feel they are unable to challenge the landlord, that their position is not sufficiently secure; and as a final important way in which this difference is dissipated—in other words, the loss is sustained—individuals tend to stay in apartment buildings that are not, from their point of view, the most efficient, simply because it is difficult, or it may be difficult, to find an apartment with the same price tag attached to it in a better location or one that is better suited to them.

All of these things we have observed in a number of different countries that have had rent control enacted and in operation for periods of years longer than we have had it here in Ontario. It seems to me the possibility of rent control leading to these kinds of losses is almost guaranteed if we continue it, unless, of course, the minimum annual

rent increase is so high that it continues to have no effect on the market.

**Mrs. Campbell:** Could I interrupt at this point because I think it is important? I don't suppose you have had any opportunity to study the announced developments in this morning's paper for the city of Toronto?

**Mr. Nowlan:** I saw them in the Star last night.

**Mrs. Campbell:** I didn't, I was here last night.

**Mr. Nowlan:** I don't read the Star that often but I did last night.

**Mrs. Campbell:** In any event, I am wondering since we have had this kind of lucky break, some people call it, in not seeing bad results from rent review—I think some people have put it that way—you have talked about supply being affected in the long run by this. Is this somewhat of an unusual phenomenon would you say, in the light of your position?

**Mr. Nowlan:** Yes, as a long-run phenomenon, I have read the results of rent control legislation analysed by, as far as I know, impartial observers in a variety of countries. I can't off the top of my head give you all the details because this has been some time ago, but the general results were unambiguous and uniform that the supply effects are significant.

I guess you know that for a number of years, most if not all European countries have been attempting to dismantle the rent controls that were placed on dwelling units generally during, or after, the Second World War, sometimes, of course, before that.

I thought that you were going to lead and maybe indeed you intend this, to ask if we may continue to be lucky, at least in downtown Toronto, as a result of those agreements that the mayor, Mr. Shibley, and planners have reached with developers.

**Mrs. Campbell:** I was leading in that direction.

**Mr. Nowlan:** I made a quip to the city housing commissioner Michael Dennis, whom you will be hearing from immediately after me, to the very effect that "Gee, we are going to have an abundance of rentable apartment units in downtown Toronto" and I think it would be useful to ask him whether he indeed thinks this is going to be the result.

**Mrs. Campbell:** I also want to ask him about St. Lawrence Development and the impact.

**Mr. Nowlan:** Yes, well, I think this will be important. I have been quite involved in the new city plan working out some of the implications of it for the development mainly



of commercial space. But I have looked a bit at the implications of it for developing apartment units in downtown Toronto. Indeed the effect of that, and especially the effect of these agreements that were signed with the developers, will undoubtedly be to bring in more rentable apartment space into downtown Toronto.

I would think that from the point of view of rent control, one can interpret that two ways. One can say, "This is the time to get rid of rent control," from the point of view of would-be residents of downtown Toronto at least, "because with this almost certain increase in supply, there are going to be enough new apartment units that the market price, in the absence of control, is going to be moderated, kept down at a reasonable level." However, I suppose one might argue the reverse side of the coin which is to say, "If the supply is coming on stream anyway as a result of piggybacking on more desirable commercial development, then it really doesn't matter if rent control is on."

This may lead you to think if you want to, and I hope you will want to, eliminate most of the present cumbersome and rather illogical structure of rent review that's now in place, that you can put some other very simple abstract device in place like a single annual maximum increase or something, which I would like to talk about in a moment, that will not have much effect overall in the supply of buildings.

The other thing to bear in mind, of course, is that this supply effect we are talking about will just take place in downtown Toronto and, as much as it might be nice to have it otherwise, not everyone in the province lives in downtown Toronto.

**Mrs. Campbell:** Sometimes you wonder.

**Mr. Nowlan:** Well, an increasing number—

**Mr. Breithaupt:** The problems related to rent matters are certainly concentrated in downtown Toronto.

**Mr. Nowlan:** I hadn't been aware of that, actually. Is that the perception that's emerging?

**Mr. Breithaupt:** My perception across the province.

**Mr. Warner:** It is your perception.

**Mr. Epp:** It is the perception of the more objective members of this committee.

**Mr. Nowlan:** It seems as if I should side-step that and continue on here.

**Mr. Chairman:** I wonder, Mr. Nowlan, if I might at this time, Mrs. Campbell did have an interjection and a question and that was

quite appropriate. At the same time, we are running a list and I think that if we can tighten it up a little bit—

**Mrs. Campbell:** I am sorry, it seemed timely.

**Mr. Chairman:** Yes, and it was. Mr. Warner is first on the list when you have completed, sir.

**Mr. Nowlan:** Okay. Well, I will quickly then complete my introductory remarks.

I feel that to the extent there is a supply effect from rent controls, the supply is reduced, this bears on the issue of affordability, which I see from your green paper is indeed an issue before you.

In general, affordability has two aspects to it that are in my opinion important to separate. One is the general quality of housing that residents in Ontario have. My view is that anything that can be done to increase the supply of all types of accommodation will obviously increase the quality of housing for residents of Ontario, reduce the demand price or the value of that accommodation below what it would otherwise be, and better the "affordability" picture.

In other words, from the point of view of generalized affordability, how well we are housed for the dollars we are paying for our housing, rent control is better not to exist, and what we want to do is encourage supply to the extent that rent control discourages supply. It will also worsen the affordability problem.

However, there is a very specialized aspect of affordability which indeed was the main one we saw before us, as members of the public at least, and I am sure you did as politicians, during 1975. Those were isolated incidences of incredibly high rent increases often for people who couldn't afford it. I mean, they made headlines. I read the Star a few days that year, too, and recall them very clearly.

I would urge you to separate this from the general issue of affordability. It is affordability in a sense, obviously—if a single parent with four children gets hit with a 100 per cent increase or a 50 per cent increase, then it is a problem of affordability for that family—but it's not the same as the general issue of affordability of how well housed we are for the money we're spending. We can't apply the simple ratios which have been knocking around for a few years now, of 25 or 30 per cent of income applied to housing and so on, and believe that we're getting a handle at all on the problem of the very poor and relatively disadvantaged family



which is already living usually in very poor accommodation and having a very high rent hike foisted upon it.

The 25 or 30 per cent ratios, I think, are not very useful even for the broader issue of how well housed we are, and I think we have to really abandon those as telling us very much of anything about affordability. So I'd like to separate those aspects of affordability and, finally, I'd like to use the second and specialized aspect of affordability—that is, the problem of the person who, once in a rented dwelling, gets hit with an extremely high rent increase—to talk about the issue of tenant rights and the need, in my view, to broaden our perspective on the rights of tenants in rented accommodation.

My general view—pitch, if you like—to this committee is that it is very important for you to move the perspective of the Legislature and the Ontario people away from price control and rent control per se and towards a broader approach to the problems of tenants' rights. The difficulty with a purely market approach to this particular tenant who might get hit with an unusually high rent increase is that it costs something to find alternative accommodation. It's not possible simply to come on as a red-hot market-oriented economist and say, "Look, there's no problem there. If rents here go up 50 per cent, there's a kind of market rent and that family can get other accommodation in a well-functioning market at market levels."

The difficulty with that response is that finding alternative accommodation takes resources and time and it's very frequently the poor family that is least able to undertake that search, that has the least knowledge of the market and is in the poorest bargaining position when it comes to looking for alternative accommodation and making deals with landlords. So the landlord in that case, and to some extent in all cases, once he's got a tenant in the building, can raise rents beyond the market by taking away some of the costs of searching for alternative accommodation from the tenants.

Tenants won't leave, is what I'm trying to say, as long as their overall value is still better staying in that building. So the landlord, once you've got a tenant in the building, has a built-in monopoly power vis-à-vis that tenant that he doesn't have with respect to the floating person looking for accommodation, because that person is still sitting someplace else and looking over the market.

What it seems to me extremely important to do is to think more carefully about the rights that tenants have, once they're in buildings, to begin to differentiate not so

much along the lines of new buildings and old buildings, which is what the present legislation does, but between short-term leases and long-term leases, and maybe to begin making some formal distinction, to specify various kinds of long-term leases that people can enter into with landlords, to ensure that the rights of tenants, once they enter into long-term leases, vis-à-vis the landlords are protected. This is done in other areas, but not so much in residential accommodation.

For example, the retailer signing a lease with a store owner for a store will naturally, over a period of two or three years, the period of the first lease, build up a certain proprietary right in that location and that store which isn't reflected in the rent. There's the potential there for the landlord to come along at the end of the first lease period and say: "Right, we're going to double your rent." The retailer may be totally stuck because the retailer would lose a lot of goodwill, knowledge of location and so on by having to move someplace else.

How is that protected? Normally, very simply, by a clause in the lease that says renewal shall be at market rent. That tends to work fairly well on that basis, so that what property rights are built up in that location reside partly in the tenant as well. It seems to me that we have to work towards similar concepts in the case of rented accommodation.

[10:30]

A very high proportion of our population, especially in big urban areas, will be living for most of their lives in rented accommodation. It's important, in my view, that they feel some sense of property in that accommodation, both a sharing of value with the landlord and a feeling of property in the overall community. My general and summary comment is that I would urge the committee to move away from a consideration of price control per se and to become very serious—and I'm afraid it may even need a further study, although there may be short-term things that can be done—towards the broad issue of tenant rights in our urban society.

**Mr. Chairman:** Mr. Nowlan, thank you very much. If I may, I just have two fast questions. Earlier in comments, I think by Mrs. Campbell, you said that you wanted later on to speak to annual allowable rent increases. Was there a number where one could have the anomaly, adequate supply and—

**Mr. Nowlan:** Yes.

**Mr. Chairman:** You didn't say anything specific on that, did you?

**Mr. Nowlan:** No. I noticed that it was very briefly mentioned in the green paper and you may hear about it later on this morning when the city's position is presented to you. My view in general is that as a price control device, one should move away from rent control totally and that if there is a fixed maximum placed it should not be viewed as a price control device.

However, it may be a very useful and simple way of ensuring one element of tenant rights that I ended up speaking about. That is, if we have this problem that I ended up describing of a tenant in accommodation and willing—not happy, perhaps, but willing—to absorb an exceptionally high increase because of the costs of search and moving and everything for another accommodation, then some upper limit may offer some at least first-stage protection for that kind of tenant. I can see the logic of a simple upper-limit annual increase for purposes of tenant protection of that sort. Unless persuaded otherwise, I would not support it as a general price control device.

What difference does that make? It would make, I think, a difference in the level of that annual increase. I think if one is seeing it as part of a package of tenant rights, the tenant with some lease protection, one might set it at a somewhat higher level than you would if you saw it as a part of a sort of phasing out of the price control package. That would be the difference, I think, that the two perspectives would lead one to.

**Mr. Chairman:** Thank you. On the question, too, of affordability, I thought that was useful the way you broke that down into two areas. You made a comment about the 25 to 30 per cent yardstick. You didn't think it was necessarily valid. Do you think it ever was valid?

**Mr. Nowlan:** No, the problem is, first of all, of course—and this is a major one—that income does not necessarily measure the well-being of families. Income is a certain flow from capital. Many families use up capital and achieve part of their wellbeing, consumption patterns and so on from the use of capital. This is particularly true of one very low income group—the retired—when capital is used up. If you look across Canada, I believe this is the case, the worst-off community in terms of affordability is Victoria, British Columbia. That may not literally be true and I wouldn't want that repeated without looking it up, but if it's not the worst off it's very close to the top.

The reason obviously is, as we know, there are a lot of retired people living in apartments there, often very rich in any reasonable sense of the word—in other words, very wealthy, but not necessarily having a high income level. So that's the first problem with the measure of 25 or 30 per cent. The base, the denominator itself, doesn't measure the things that we necessarily want to measure when we think of how well off a person is.

The second thing is that the ratio itself tends to be calculated and applied across the whole population. For middle to high income earners there may be absolutely no difficulty paying 50 or 70 per cent of their income for accommodation. If that's indeed the way they want to spend their income, there's still lots left over for all of the other things in life. For a very low income earning and poor family, paying 15 per cent may be an extremely hard burden. Unless we separate out our ratios and attach them to different income groups, the overall average, I believe, is virtually meaningless.

**Mr. Chairman:** Thank you very much.

**Mr. Warner:** I just had a couple of questions. I may have missed it at the beginning, Mr. Nowlan. You are a professor at the University of Toronto?

**Mr. Nowlan:** That's correct.

**Mr. Warner:** In what field?

**Mr. Nowlan:** Economics.

**Mr. Warner:** I am quite curious. You have given us a good presentation in terms of your having looked at the whole situation. In what capacity have you dealt with the situation and over what period of time?

**Mr. Nowlan:** I guess most of my recent writings have been on the land market, land related issues. There hasn't really been any other capacity. I have been consultant and adviser to various groups looking at related issues, but no other capacity than that. It is part of my research and writing and teaching. I am an economic theorist primarily, but as a sideline I teach and write in urban economics and land economics. I'm chairman of the urban studies program at the University of Toronto. I teach our undergraduate and graduate courses in urban economics. I am not sure whether that's the answer that you wanted.

**Mr. Warner:** I was just wondering what brought you to your assessment of the rent review situation in Ontario and what was the motivation.

**Mr. Nowlan:** My position in 1975 was one of opposition to the legislation and my reasons for opposition were reasons that I am



sure you've heard from virtually every economist who has appeared in front of you. I feel, as I said, that in fact over that period its effect, as it happens, was not very great.

My general view is that it is a delusion to think we can deal with the significant tenant problems in our society through price control on rented accommodation.

**Mr. Warner:** I guess it was the chairman who raised the question, and I found the answer rather strange in a way, that we could have an upper limit for an increase and that would be some sort of protection. On other occasions we have heard comments that even under our present legislation the amount that has been set aside has tended to be a floor that becomes the minimum. I find those two positions to be contradictory. If you set some sort of upper limit, what you may want to set as a guideline and some form of protection may, in fact, become the floor. Is that not possible?

**Mr. Nowlan:** The reason I raised the matter at all is because it is referred to in your green paper and I think there has been some discussion about the possibility at the end of this year of moving into a kind of decontrol period in which you would use a single annual increment as a kind of upper limit. I think the more one regards that as a price control device throughout the market the more it will be used by some people as simply base level pricing.

That phenomenon does exist in the market. It is observable in many markets that markets don't always operate as they should according to the demand and supply curves in our textbooks. Very frequently sellers take as their price level some base level, and a single figure can be used that way. If it is used as a tenant protection device along the lines that I tried to develop it towards the end of my presentation then it would be much higher and I don't think would be seen as much as a base price, a minimum price.

I am sure there were elements of its use, the eight per cent say as a base price, to say: "Eight per cent is there, so we are going to take eight per cent," whereas in the absence it might have been a bit less. Just because that occurred sometimes doesn't mean it totally dominated the market.

**Mr. Warner:** You made a statement about supply being important; obviously it is. But what about the supply of affordable housing? We've had a supply of housing and, according to the ministry which gave us a little paper this morning, we've experienced a period of unprecedented levels of new housing construction; that's according to the then

minister, the Hon. Mr. Rhodes. That doesn't mean it's affordable.

But you connected that with quality—a greater supply of greater quality. But hasn't our experience in the production of the condominium units not proven that out? We have a glut of condominium units on the market now. And many of them experience extremely poor quality construction, both in the townhouse units and in the apartment units.

Some of the apartment condominium units are absolutely terrible, in terms of construction, and are no protection for the people who have bought them. What brings you to equate supply with greater quality?

**Mr. Nowlan:** Whether they're terrible or not depends entirely on what kind of price they're selling for. I mean there may be a few standards that have to be adhered to, but the important matter in the market, surely, is that there be a wide range of prices. That will also mean a wide range of quality. Quality has a variety of different dimensions. It isn't just the quality of the plumbing, but also the size of the houses, the sizes of the lots, and so on. We've been moving in fact, in Ontario, towards some greater diversification in the housing market than previously existed.

If you look at the Ontario data, as you may well have done already, you'll see an increasing proportion of single-family dwelling units—at least, attached dwelling units—in a small size, smaller numbers of rooms, and smaller lots. There's obviously been an increasing interest in the market in building row housing, and so on.

So those are units of diminished quality. They're also units of lower price. I think what is extremely important—and it's a rather complicated argument to fully grasp—is that the price that one observes in a price-controlled market may not be the value of the housing to the people in it, and that there's a distortion introduced when prices are controlled. Supply is reduced and one can easily tend to say in the price-controlled market that even though supply is reduced, we've got the apparent price down low so that's good.

The problem, as I've said, is that there are all these distortions in a price-controlled market, so that the value of a unit of apartment building to individuals is very high. The difference between the apparent price and the value is made up in all of these various ways that I described: the long search procedures; living in inefficient accommodation; accommodation in this part of the town when your job is there and you daren't move because you've got a very low price-con-



trolled apartment building there; the payment of key money.

The lower you go down on the income scale, of course, the more often you abridge those formal price controls too. My view of the present legislation is that middle and high income earners in the major apartment buildings in Toronto might well have benefited. I doubt very much whether it benefited very poor families, who are living in small-landlord accommodation. There are just too many ways you can get around a simple price-controlled price for it to have effect. Those ways are in evidence in every country in the world that has tried it.

So that although, you may witness a slightly higher level of price in the market—when you release the market from controls—the fact that you have a larger supply does mean that your population will be better off than it was with a smaller supply.

**Mr. Warner:** We've got to debate that. I just have one last question.

**Mrs. Scrivener:** Would you expand your remarks on the filtering-down process?

**Mr. Nowlan:** Yes. The filtering-down process is a process in the housing market by which families, as they move through their life cycle, find their incomes tend to get richer and move up into better accommodation leaving poorer accommodation for poor families. While this doesn't work in all markets, it has been observed, and there's enough empirical evidence to support its happening to warrant one's belief that it does have a role to play in the housing market.

**Mrs. Scrivener:** Could you expand your comment to relate that to the supply?

**Mr. Nowlan:** I'm not sure what direction you're leading me in now.

[10:45]

**Mrs. Scrivener:** I thought it was appropriate to your response.

**Mr. Nowlan:** Many people have used the filtering down process to argue that even if you expand supply only at the high-price level of housing, you will still have the beneficial effect on those people who are in poor housing, because of the filtering-down process.

**Mr. Warner:** I wouldn't try to sell that in Regent Park.

**Mr. Nowlan:** No, I think it was oversold for a while.

**Mr. Warner:** That just doesn't hold water.

**Mr. Nowlan:** Some of that happens. I mean, one can't deny it is a process. But I don't think we should feel the market operates only that way. Nor, for that reason should one be

concerned with introducing various incentives to producing lower-priced housing. Among other things, even if the filtering process does work overtime, it does take a while to work. Some of it happens but I don't think we can neglect the problem of encouraging lower priced new accommodation to be built.

**Mr. Warner:** The filtering process, though, in fact does not work for the segment of our population who have traditionally had low incomes. It is a system of inbred poverty. That's been going on in this country ever since we have been a country; I mean, that's nothing new. Rent controls have had no visible effect on that phenomenon—the income level, I mean. Those people are traditionally not housed properly, generation after generation.

My last question was with respect to figures. We have been relying upon CMHC figures regarding vacancy rates. In your studies, in your work, have you used any other source of figures for vacancy rates?

**Mr. Nowlan:** No.

**Mr. Warner:** How accurate do you feel these CMHC figures are with respect to the various urban centres in Ontario?

**Mr. Nowlan:** I really haven't examined them closely enough to give you a very authoritative answer. Reading through the methodology, I would presume they are quite good for use in comparing changes in vacancy rates over longish periods of time. I wouldn't pay a lot of attention to shifts from one month to the other—of, you know, half a percentage.

**Mr. Warner:** Just relative comparison as opposed to being absolute?

**Mr. Nowlan:** Yes. Looking over Toronto figures, I see some reference to vacancy rates in the green paper and a suggestion that they are recently rather low in Toronto. They have always been rather low in Toronto and I think that is a fair indication of the vacancy rate, the apartment market in Toronto. They persist at not much over one per cent usually, from 1973 through to 1977, and a bit of variation from survey month to survey month, and I would guess that a large part of it is totally random. Other areas: Hamilton for example, experiences traditionally fairly high vacancy rates, Thunder Bay extremely low; I don't know exactly why. But I would think that persistent results of this sort would provide fair guidance to you. I wouldn't pay a lot of attention though to getting one new month's figures out and saying "My God, it's away down, or it's away up now." I would think that would be a misuse of the data.

**Mr. Chairman:** Mrs. Campbell, and then we have Mr. Samis and Mr. Walker. Then I think we should end the questioning.

**Mrs. Campbell:** Just one comment on the filtering-down process. That was obviously the philosophy of Central Mortgage and Housing Corporation after the war and I can recall the Ontario director in that organization and the battles that we waged on that philosophy. It just didn't work. I don't think that it has, with respect.

You mentioned something that interested me and that was the reference to the lease and the protection of tenants. It has been suggested that we should have a uniform lease. Were you suggesting that in developing a uniform lease, this should be a standard clause, because I can see where in commercial properties, it is quite easy, with the vacancies and the rest of it, to get that kind of a protective clause on renewals there? I would think in the market for housing today, unless it were a mandatory part of a lease, we're whistling Dixie at the moment to get that. What would your comment be there?

**Mr. Nowlan:** I can very well envisage that you'd want to make that, or some better suggestion, a mandatory part of the lease. I'm suggesting that it is appropriate for the government to become involved in the market, to define that relationship. It seems to me that there are two kinds of renters in the market. One, indeed, is a person who is renting for a short period, and as policy makers you may feel perfectly content to have that person subject to the standard market forces—to be in an apartment for a while, no particular rights in that apartment building, maybe move to another one and then ultimately out of the country or to another city or buying a house or whatever their short- and medium-term goals are.

For other people, the prospect of renting may be a very long-term prospect. What concerns me is not only the rights which that tenant has in the emerging property—the building itself and the land—but also the identification which that person has with the community. I would think our concern about tenant rights and tenant legislation would extend to the kind of stake the tenant has in the community, the kind of stake the tenant has in a better community, in making that particular property more valuable.

How can that stake be expressed? It can be expressed in a variety of ways. One is by ensuring over the long period, as the right to property of the tenant becomes stronger and stronger, that the tenant has a better and better deal on the rent, relative to newcomers. I would think we would want

some way of permitting the tenant to capitalize on that property which has been developed, if that tenant moves, so that we don't get ourselves locked into a position where a tenant finds himself having to pay in one apartment building because there's such a better deal there than going someplace else.

These are rather innovative. They go well beyond the philosophy that's in the green paper now. It seems to me that, for our large cities at least, we are going to have such a substantial and continuing tenant population that we would be well advised to direct our attention to these forms of property the tenant might have in the community and in the building.

Ownership is very complex. Ownership, as all of you know, has a variety of strands. What I'm really suggesting is the possibility of looking at the tenant developing one form of ownership over longish periods; it falls short of buying a condominium at the beginning, but it's gradually moving in that direction.

The social injustice in our society, by anyone's definition, occurs when there has been a tenant in a building—maybe it's an apartment house or a larger unit—for 10 or 15 years and then he is abruptly forced out by some measure. That, it seems to me, by anyone's definition, is an element of social injustice. The market is of our own making, our own device. We don't want the market to do that.

**Mr. Rotenberg:** What about the tenant's obligation to stay longer? The landlord has rights too.

**Mr. Nowlan:** Of course, the landlords must have the rights to provide the incentives, to provide the buildings, to maintain them. Some of that maintenance might be shared with tenants on long-term leases. There's no reason why one couldn't have maintenance pools that were contributed to by tenants, so that they too would have a property right in a building.

Again, that's why I'm suggesting one possible first cut at this is to separate short-term and long-term leases. The short-term tenant might not have the least interest in that. All that person is interested in is short-term accommodation and that's fine. The hassle of any property rights isn't of any interest to that person.

**Mrs. Campbell:** One of the horror stories that came out was a bright young man who had a new idea for financing and one of the women ordered out was a 95-year-old woman who had lived in the building for some 40 or 50 years. I'm not talking about a short-term tenant.



I have a problem that I would like you to address. One of the counterproductive things that is happening in my riding is that we are losing apartments for tenants on any long-term or any of the normal tenancy arrangements to the new deal where the landlord, on a vacancy, enters into an agreement with a large corporation which then uses that for transient purposes, for bringing in people from all over the world for a course or a conference or something. I'm wondering, since you've studied the economics of the situation, what are the economics of that kind of an operation and is there any way that we can stop this kind of counterproductivity in the field?

**Mr. Nowlan:** I haven't looked at it in detail. I think the only useful comment I could make is that it may be one of the areas in which rent control is having a harmful effect. It may be because of rent control that we're seeing that sort of conversion occur.

**Mrs. Campbell:** It was occurring before.

**Mr. Nowlan:** I presume in general, from what you have described, that it is occurring because it is more profitable to use the property in the second way rather than the first.

**Mr. Breithaupt:** Surely, it was a much more convenient thing in the heart of the city for the company, with people in every two or three weeks on courses or whatever, to have less expensive accommodation than a hotel offers.

**Mr. Nowlan:** But you would still only do that, as a property owner, if it made the property more valuable to do that.

**Mrs. Campbell:** If it is profitable. I'm wondering what the profitability is. I suppose it must be on a long-term arrangement.

**Mr. Nowlan:** I think there has been some marginal effect of rent control over the last three years. I didn't know this trend, but I suspect some of the increasing interest in condominium developments and so on is because of rent control, and you're probably just getting at those marginal effects of rent control in that kind of development. Some of that conversion might well take place anyway, even in the absence of rent control. We do change around the uses of our property but the thing we don't want is to put on constraints that discourage the development of new rental accommodation. Things aren't going to stay rigid no matter what's done.

**Mrs. Campbell:** That seems to be the case.

The last point has to do with this matter of the 20 or 30 per cent, which has been used ever since I can remember, as the gauge for suitable rent. We are advised via the rumour mill at the moment that new rent

scales are being prepared by Central Mortgage and Housing Corporation and Ontario Housing Corporation for tenants in public housing units. The information I have—and it could be wrong—is that they no longer seem to regard that ratio as inviolate.

What would you foresee in the general market if, in fact, that kind of rent scale came into effect for those at the lowest end of the scale? How would that reflect on the other conventional buildings in a free market?

**Mr. Breithaupt:** This is a higher scale in proportion?

**Mrs. Campbell:** This is the information. It can be just rumour. Rumours fly. Should that occur—and I always fear the worst, I guess—would that kind of philosophy not have quite a significant bearing on the conventional situation?

**Mr. Nowlan:** I don't think in and of itself it would. It depends really on how it is linked to the government subsidization of units themselves; in other words, what supply effect it has. I would guess that there might be two effects on the market. One would be that the higher ratios, if they are introduced, would encourage some poorer families to seek accommodation other than in this type of apartment building or this type of rental unit. But if it is otherwise unrelated to rates of production of new units, I wouldn't expect it would have much influence on the market.

[11:00]

If it had any influence at all in and of itself it would be to drive prices up very slightly, because it would encourage a greater demand into other parts of the market, but I would think that would be a pretty small effect, and that effect could be totally swamped if it's accompanied by any encouragement for further production, which may be unlikely.

**Mrs. Campbell:** Mr. Chairman, I really have been impressed by this presentation. I would like to invite Professor Nowlan to put down for us some of his ideas about tenant rights and assistance to tenants, because he does seem to have worked through something. I think it's the first time we've had this kind of presentation. If there is a possibility that he might, even now, submit something in point form for us I would like to see it. I'm just sorry that the time doesn't permit further discussion today but it's an interesting approach to me and I would like to see it. Is that possible?

**Mr. Nowlan:** Yes, it would be at the moment in point form and not well developed. In fact, in some deliberate ways I have



avoided developing a full range of positions on tenant rights because I think it's an issue that needs discussion rather than a finally formulated position at this point. I think it needs some extension of the work that the law reform commission has done. I don't see the sort of thing this committee can do as being the creation of a fully formulated philosophy that can be enacted in legislation of this sort.

**Mrs. Campbell:** But we have to touch on that.

**Mr. Nowlan:** I would very much like this committee to urge the legislative assembly to think along those lines. I hesitate to suggest it, but I suspect that it means the formation of another study group or a commission to study it.

**Mrs. Campbell:** At this point I'm not sure we're open to it.

**Mr. Rotenberg:** Mr. Chairman, something about the tenants' rights that bothers me is that if you give the tenants too many rights you're going to discourage landlords from investing in buildings. You did touch on that a little bit. In any of your presentation did you indicate how the landlords would be able to have reasonable protection in security of their tenants staying with them and reasonable security in the management of buildings? If what we hear from landlords here is correct, there are too many tenants' rights now. I am not saying we accept that, but if you're extending tenants' rights you also have to look at the other side of the equation and how it would affect landlord investment and landlords owning buildings, whether it lead to far more condominiums, et cetera. Can you sort of give us the other side of the coin as well so that we could get a reasonably balanced picture?

**Mr. Nowlan:** Yes, I think the problem is that we may have formulated the wrong kinds of tenants' rights in our legislation. The tenants' rights that I am thinking of would try to marry the interests of the tenants and the landlords so that they work together. That's why I'm suggesting that the present discussion of that in the green paper is very narrow.

I'm not talking about tenants' rights that would give tenants an increasing right to destroy a building or to stay on beyond the point where they were useful contributors or even members of the building community. I think we have to get away from that and towards trying to marry the self interest of the tenant with the interest of the developer.

The way of doing that in abstract is to try to develop a form of tenant property

that emerges through association over long periods with a building and an area, and once that's done then both the tenant and the landlord have the same mutuality of interests. Their interests are against the guys scribbling on the elevator and so on. It's in that direction, I think, that our tenants' rights have to go.

**Mr. Rotenberg:** That would be valuable if we could get that sort of thing.

**Mr. Chairman:** It would be very valuable. I heartily endorse the comments made by Mrs. Campbell. Your comments are very thoughtful and that's reflected in the number of questions. I know we have two more people who would like to speak with you. I wonder, Mr. Samis and Mr. Walker, if you could try to keep it to one or two brief questions. We have 27 presentations to hear. Everyone has the agenda.

**Mr. Samis:** Thank you, Mr. Chairman. I'll try to expedite mine by asking both at the same time and not interject with any supplementaries or anything. It's a little habit I picked up in China last summer, courtesy of Comrade Duktza here.

**Mr. Nowlan:** Okay, I'll give you quick answers.

**Mr. Samis:** Could I ask your reaction to two options facing the committee? Primarily because of your economic background, primarily in the context of economics, number one: What is your feeling about the argument we received from developers that if rent review were to continue with a fixed percentage guideline of some sort, it would affect the prospects for investment by large developers in this province as opposed to other options or other opportunities for them in Canada or south of the border? The impression we've been getting is that it would severely retard the rate of investment in this province if rent review were to continue, say, at six per cent or eight per cent.

Secondly, not coming from Metro, and being aware that there is more to this province than Metro and that more people live outside of Metro than in Metro, can you, from an economic point of view, give us your assessment of the option being proposed by some, and possibly the subsequent speaker, of what the economic effect would be if rent controls were to be either phased out or abolished for the rest of the province but kept for Metro, as to how that would affect communities outside of Metro, especially in the context of that situation versus a general abolition of rent control?

**Mr. Nowlan:** Okay, the quick answers: The first point, the developers view it as

nonsense. It's like another Star headline I read when it sort of said: "Six properties sold in downtown Toronto," and there was a great black headline that six people were moving south of the border and sold their properties. I thought of the counter headline saying: "Six properties bought in Metro Toronto." There's a buyer for every seller.

All that would happen is there is absolutely no reason why it should have an effect on overall investment. There will be an effect, though, on the amount of rental accommodation and you'll get a division of land that would otherwise be put into rental units and a continued attempt to put it into condominiums or single-family dwellings, or what have you. The end result of this would probably be that land values will go down. Land values are residuals in this process. They're quite high at the moment, and they'll just adjust downwards, but the land is still there and the investment profitability will be the same as it was before.

It will just be a diversion of investment. In other words, when I say it's nonsense, I mean it's nonsense that it's supposed to affect the overall investment in the province. It's not nonsense to suppose that it will affect the amount of apartment accommodation we have. That's my answer to the first question.

The second one is that I would think it would be a singularly perverse thing to do to leave rent control in Metro and to remove it in other parts of the province. Metro Toronto will probably have less problem than other areas. The demands within Metro Toronto over the next while are not likely to be terribly greater and the rate of population growth in Metro has declined substantially recently.

**Mr. Chairman:** Could I just interject on that, please? Could you give any numbers on that—the rate of population growth in Metro?

**Mr. Nowlan:** I don't have them in front of me but, yes, our Metro planning department has precise numbers. They corrected the federal census, which was away off in Metro, and we now have fairly accurate numbers. In absolute terms, the rate of population growth in Metro now and expected over the next five or 10 years is about half what it was in the mid-1960s. I think we're talking about a reduction very roughly of—no, I won't mention figures because I can't show you them now. It's been a very rapid reduction. There's going to be some relocation of people within Metro. There's still lots of redevelopment but just the absolute population growth is rather small. The vacancy rates at the moment aren't much different from the

rates that have occurred over since 1973 or so.

I wouldn't see any point in making that kind of separation. Places that will be more dramatically hit would be areas that experience some, say, sudden surge in demand. That gives the owners of existing buildings a monopoly in buildings and there might be a short period during which rents can increase to unusual amounts, which would then be moderated subsequently as building took place.

The big problems, it seems to me, are going to be outside Toronto if we are not a little wiser than we've been in the past in our regulation of land use. We have to be concerned that if we regulate, we regulate wisely and we don't regulate in such a way that the supply of accommodation is reduced. But again I would think those would be problems as much or even more outside Toronto as inside Toronto. So I am not sure why one would do the peculiar thing of keeping rent control in Metro but not outside. I might have seen some argument for doing the reverse.

**Mr. Walker:** My question relates to the property rights question, enshrining the property rights. I think all of us are intrigued by this and perhaps you will be touching on it in the points that you ultimately produce for us. I think we would all agree with the principle: We would like to see a greater property interest developed for a tenant. On the other hand we are faced with the problem we always have: In many respects we are governments of minorities in that a minority of the tenants make life very difficult for land owners, apartment owners, and similarly a minority of apartment owners make life difficult for tenants.

We end up having to govern as a result of those two very small minorities, but in the case of the tenant, two or three or something per cent of them make life very very difficult by not paying their rent or by giving darn good cause to be evicted. How do we balance that aspect off with the aspect of enshrining the tenants' rights? The obvious corollary to enshrining additional tenants' rights in respect of sort of the ownership, if you can call it that, of the tenancy, is to provide them with longer periods of holding on to the tenancy, longer periods of protection. How do we balance those two?

**Mr. Nowlan:** If we are able to search towards a definition of tenants' rights that will move those into conjunction with the owners' rights, then the balancing may be much simpler. For example, I notice the green



paper mentions a proposal by which landlords can eject more quickly than now tenants who are in arrears in rent. It seems to me if that could be achieved it could well be beneficial and wouldn't necessarily run contrary to the development of tenant property that I am talking about, where there's a clear breach of contract, things of that sort.

So the more one can develop a sense of tenant property that would naturally relate to the sense of property that the owners already have, the less I think that would be a particular problem, and the more there'll be a conjunction of interest. The majority of tenants will themselves not be willing to tolerate the problems caused by a minority of tenants. That's a very abstract and glib answer I realize. I think these are big questions that I am not capable of resolving right here and now, but I would think the kind of movement I have in mind would lessen that problem, not worsen it.

**Mr. Walker:** In principle, it certainly sounds very valid. The only problem I have is putting a specific on it. What gives a tenant a greater interest in the tenancy that he has other than perhaps the right to overhold? What single thing would give a tenant a greater right or a greater property ownership?

**Mr. Nowlan:** Things like the apartment equivalent of profit sharing, let's say. One can think of it either as cost sharing or, indeed, literally as profit sharing would be one way. Writing legislation that would permit a variety of long-term lease contracts that are not customarily if at all in use today and that will probably require legislative sanction. If one shares costs and/or shares profit then you automatically have a property right in that. Ensuring the ability to renew at market rents and not at exorbitantly high rents that could be extracted because people are not mobile. Those are all elements of property.

**Mr. Rotenberg:** Do you mean an obligation to renew it or the right to renew it—

**Mr. Nowlan:** It could be.

**Mr. Rotenberg:** The problem is, the main complaint landlords have is that the tenant has the right of security of tenure for many years but the tenant can pick up and move any time. The landlord has no security at all. Landlords complain that we need a little balancing between landlord security and tenant security. Are you thinking of a long-term lease as having a two-way obligation?

[11:45]

**Mr. Nowlan:** A long-term lease necessarily is a two-way obligation. At the same time, as

in all leases, there may be ways of abrogating the lease at a reasonable cost and expense.

**Mr. Rotenberg:** The right to renew at a reasonable rent by the tenant; the right to expect renewal by the landlord would be a corollary you are talking about?

**Mr. Nowlan:** Well, again referring to my example of the retail trade, it seems to work reasonably well where there is a lease written for a certain length of time and the lease holder, the tenant, has an obligation during that period. The obligation then is on the landlord to permit renewal at market rents so that whatever rights and interests are built up in that property by the tenant continue to reside in the tenant if the tenant wants to take advantage of it. It seems to work reasonably well in that—

**Mr. Rotenberg:** If he has made improvements, he has a financial stake in the place.

**Mr. Nowlan:** Yes, indeed, in that case the tenants generally undertake all the improvements, but it is not only the improvements. It is the general location, the quality of the store, the custom it has attracted, all of which the landlord could take advantage of if he wanted to boot out that tenant and put in someone else. All of that can be taken advantage of.

**Mr. Chairman:** Mr. Nowlan, thank you very much for your time.

**Mrs. Campbell:** One comment I have to make is with reference to the figures of population. I think there is a very serious error made by those who approach that scientifically because it is my view, and I have no scientific evidence at all, that while the population figures are as you describe. I believe certainly in my own riding that the hidden population has increased. I don't think that is ever recognized in these figures, is it?

**Mr. Nowlan:** Yes, in the sense that the federal 1976 census was widely believed by all major municipalities to undercount very strongly, especially in central cities. The planners at Metro have attempted to correct for that and to come up with an adjusted figure for Metro Toronto.

**Mrs. Campbell:** How did they find the hidden population when we can't find it for grant purposes or anything else?

**Mr. Nowlan:** The hidden population may remain hidden. The question is the growth rate between two periods that they can adjust for and correct for. What was hidden initially remains hidden, that is true, unless you are able to pick it up in some other way—in schools, for example.



**Mr. Rotenberg:** The hidden population is important.

**Mrs. Campbell:** I think so. That is my view.

**Mr. Nowlan:** I think that is true as well, in cities especially.

**Mr. Chairman:** Thank you very much.

May I just ask Ann Harriman: My recollection, Ann, is last Wednesday night when we talked you indicated you had a real time problem today?

**Ms. Harriman:** It seems that I was mistaken. I thought that the 30th was on the Wednesday.

**Mr. Chairman:** Michael Dennis.

**Mr. Dennis:** Given the lineup you have, Mr. Chairman, I will attempt to be as brief as possible.

I am the commissioner of housing for the city of Toronto and as such I am charged with the production of low- and moderate-income housing by the city, the co-ordination of the efforts of other producers of such housing, and the co-ordination of the production of private housing in the city of Toronto.

I am bringing to you the position of the council of the city of Toronto which was adopted at a meeting held some two weeks ago on May 24. I believe, in fact, copies of the position have been made available to the committee.

**Mr. Chairman:** I received a copy yesterday and I think all of the members now have it? If they do not have them, copies will be made available.

**Mr. Rotenberg:** Was the position adopted fairly unanimously in council or fairly split up in council, or is that a fair question?

**Mr. Dennis:** As council goes, I believe the vote was 14 to eight, Mr. Rotenberg, which is fairly unanimous for our council.

**Mrs. Campbell:** Was it your position that they adopted essentially?

**Mr. Dennis:** With minor amendments, yes.

I should say, following the eloquent presentation of Mr. Nowlan, it is the position of the city of Toronto that some form of control, some form of tenant protection must be extended.

He was speaking in terms of taking controls off now and thinking that might not have that much difference. That is not the position of the city. In arriving at the position which the city adopted, they basically had before them two options from which to choose.

One was an extension of the existing rent review system, tightening it up, attempting

to improve the way it operated, and the second was the kind of flat ceiling which Mr. Nowlan alluded to. They opted as much against the continuation of the present rent review system as for the flat ceiling.

They opted against it for reasons which are both internal to the operation of the system and for reasons relating to its impact on the housing market again, for reasons not unlike the statements made by Mr. Nowlan.

In terms of the problems internal to the system, the system is not particularly clear as presently operated. It is our perception that neither landlords nor tenants are particularly happy with the system. I am sure you have had any number of representations at this committee so indicating.

I think a large measure of that unhappiness relates to the uncertainty. How should you decide what is a fair level of increase? How do you develop accounting guidelines to make sense out of cost passthrough? What would be fair procedures? Should you operate like a court or a board, or what?

Given that uncertainty, given the unhappiness, given the cost of continuing the system, and given the fact that it seems to be, in terms again of talking about security of tenure and co-operation between landlords fostering an adversarial relationship between the landlord and tenant, a worse adversarial relationship than existed in the past, the position of the council was to move towards a flat-rate system and to get rid of the review process.

Part of the reasoning for so doing relates to the problems of rent review itself and how that process operates. The other part relates to the impact of rent review on the housing market, on the availability of housing stock, on the quality of the stock which is available to all tenants.

In terms of production, I don't disagree, nor do I think the majority of council would disagree, with the position that Mr. Nowlan was putting to you, that rent review has not—and I would add the words "per se"—inhibited the production of rental housing. There have been other more important inhibiting factors. The most important of these in my view has been the price of money, but, there were other changes that we went through in the middle of the '70s as inflation hit both the construction cost and the operating cost of apartment buildings, which made it uneconomical to produce them at rents which approximated market rents. It meant that a large jump in the rent which one would charge for a new building over what

the existing market was charging was required.

In part to bridge that gap, government subsidy programs—the assisted rental program in particular—were developed and then, unfortunately, changed annually, and we have started to see some rental production under those programs. It is clear to me that the general economic situation and the profitability of producing apartments has been the major reason for the limited amount of rental housing produced, although the most recent government program was beginning to have some impact until they again changed it last month.

Apart from the general economics, the second question has been the availability of land and the availability of land on which one would legally be entitled to build. The city of Toronto some two and a half years ago, passed a plan that would let people build rental housing as a right on zoned land and we are hopeful that any time now that plan will be approved.

There have been substantial delays we have faced in the city with our assisted rental projects in getting them underway, given the backlog of applications that sit before the Ontario Municipal Board. In my view it is imperative that something be done simply to increase the staff of that board to get rid of the backlog. At any rate, those are two of the reasons for the limited amount of rental stock being produced.

The third reason, in my view, is rent review, is rent control. I have spoken to a number of developers, not in the last little while and not in respect to rent review but with respect to their interest in building rental housing on land owned by the city, as part of some of our larger-scale developments. Some of them have indicated an interest under the new government assistance programs but other major developers have said no, not until it is clear that rent controls, as they call them, will be going away. I don't think they were taking that position as a lobbying position. That was an honest statement of how they would respond to an offer to make land available to them at market price on which to build.

Their concern is not so much with the program itself and the manner in which it operates but with that gap between existing market rents and the market rents for new buildings, even given assistance. They are concerned that that gap under rent control or rent review will widen. The wider that gap is, as Mr. Nowlan was indicating, the less likely people will be prepared to move from the cheaper existing building in which

they live to a new building, and the thinner will be the market from which the developer will be able to market that new building.

That is their major concern and I think it fair to say that, assuming we can clean up the first two problems—the problems of economics, either by money getting cheaper or by government assistance programs, and cleaning up the problem of land available to be built on immediately, the presence of controls on rents, which are likely to allow increases which are lower than the increases on new buildings will seriously inhibit the production of new rental housing. That inhibition of production was one of the major reasons for the council's position.

The second reason was concern with respect to the quality of the existing rental stock. We are talking about protecting tenants, and most people when they talk about protecting tenants concentrate on price. There are two aspects of the landlord and tenant relationship; one is price, the other is quality of service.

Although there is no clear evidence of substantial deterioration yet, what happens under a rent review system based on cost passthrough is that the profitability of the building to the landlord shrinks. He had a certain level of profit on which he was operating three years ago and that level of profit shrinks as his rent increases are limited to costs only. What will happen as his margin shrinks, is that he will look to cut corners. He will look to cut corners in areas in which he has discretion. That area of discretion is maintenance. It is, as Professor Nowlan said, with a clear experience in other countries and likely to happen in this province, to the extent that you keep a tight ceiling, the quality of that existing stock will deteriorate.

The answer to that may be to police it. Use your housing standards powers. Make landlords provide a decent level of accommodation. The city of Toronto tries to do that. It is a difficult process. It is one that, in my view, is a much unhappier one than allowing a reasonable rate of return on a building, and allowing most landlords who will be reasonable to police themselves, and using your police powers, your regulatory powers only in those cases where you have to.

The third reason why the city would wish to move away from a rent review position is because of the inequities that rent review or rent control produces within existing buildings. The marketplace tends to price equivalent goods in equivalent manners. Over time, there may be discrepancies but they iron themselves out. What happens now is that we have got a review system whereby prices are



held at the level which existed in 1974. You may go into one apartment building and find the same unit renting for \$350 or \$450—exactly the same unit—depending upon the rent that existed in 1974, because all adjustments over that base are made on the basis of cost. That means some tenants are being put in a windfall position. Their unit is being rented for a price that is below market, and others are paying market and perhaps higher market, whatever the market will bear. It is basically inequitable.

[11:30]

The final argument, again relating to equity, is the question of why the residential housing sector should be the one sector of the economy in which the charge for the product is based on an historic rate plus a cost passthrough at the same time when the rest of the economy is being freed. It is clear that what we are after is tenant protection and it is a matter of going back and remembering what we are protecting tenants against. We are protecting them against the situation that arose in 1974 and 1975 of very high rates of increase in rents and it is not a matter of ensuring a tenant that the price he is paying is based on a 1974 rent plus cost increases.

The position which the city, therefore, adopted was one that would hold the lid on rent increases but would bypass the present apparatus with its cost uncertainty, et cetera. So you will find on the first page of the letter from the mayor to Mr. McCaffrey a five-point program which the city would suggest to you for moving away from the present rent review system and ultimately away from a rent control system. The first recommendation is that the present rent review apparatus be substantially reduced to a level which would deal only with minimal appeals.

The second recommendation is that a maximum rate of increase such as seven per cent be applied for each of 1979 and 1980 and that there be very limited conditions for appeal—that is, forced refinancing, refinancing only at the expiry of the mortgage term and not if the property were sold and changed hands at a higher price and major repairs.

Third, decontrol would be combined with a condition that a target level of rental starts would be achieved in key markets such as Metropolitan Toronto, if controls were not to be continued.

Fourth, to deal with the affordability problem, the province should introduce a limited shelter allowance program for elderly tenants, the position being that many of the people whom we saw hurt in that period were

elderly, similar to the British Columbia shelter allowance for elderly residents program.

And, fifth, a rent registry should be established which would provide up-to-date information on rents and rent increases for comparable accommodation, and would let tenants know whether they were getting value for their present rent, and perhaps it would act to restrain landlords in making increases in that their actions would be public knowledge.

The one other point that I think I should address myself to is why the level of seven per cent. Clearly the concern was not to have the major increases that we saw in the mid-1970s. One had to pick a figure and the seven per cent figure can be rationalized in a number of ways. It is approximately two per cent below the present rate of increase in the consumer price index. It is substantially below the level of increase which Ministry of Housing surveys indicate is taking place in those housing units in Metro or for that matter in most metropolitan centres for which increases came into effect.

Your surveys indicate—and it makes sense to me—that about only 80 per cent of units receive rent increases in any given year, and that for those units across the province, the increases are running in excess of 10 per cent. A seven per cent ceiling with limited appeals would, therefore, be a tightening up of the protection for tenants.

Another reason for the seven per cent ceiling is the operation of the housing programs under which new private rental housing is being built. Under the assisted rental program under which most of the rental housing in this province has been produced, rent increases of a level of eight to 10 per cent are going to be required for the next decade to allow the federal government and the province to float out of the subsidies which they are providing. A level of rent increase, at least in that neighbourhood, is going to be required if we don't want to have a substantial gap between the new housing being produced and the rest of the existing stock.

Finally, a seven per cent increase will cover the level of increase in cost required, even by those landlords who are in the worst situation. We would project that the rate of increase in operating costs in Metro next year is likely to be of the order of nine per cent. On an older building, operating costs are likely to constitute 50 to 70 per cent of rent. That means that somewhere between four and a half and six per cent increases for older buildings will be required to permit a cost passthrough.



Under those circumstances the seven per cent ceiling will allow those landlords in the worst position to pass on increases in operating costs and will allow others who are in a better situation some small margin of increase.

The one other point I should make, I think, before concluding my remarks, relates also to the security of tenure and to the questions being asked by the gentleman to my left. The city of Toronto is also concerned about security of tenure and there are several recommendations set out on the second page of the mayor's letter which indicate the council's position in that regard. It, too, would support the provision of a standard form of lease, standard forms of notices and a tightening up of the provisions in the act which permit the landlord to regain possession of the premises for his own use, indicating that more responsibility should be put on the applicant to show his bona fides—that is, that he has no other principal residence.

With regard to the question of what you do about two or three per cent of the tenants who create some difficulty—

**Mrs. Campbell:** You have ample experience.

**Mr. Dennis:** I have ample experience, Mrs. Campbell.

—particularly with regard to the complaints of landlords—and I should point out at this time that I am now abandoning the council position and speaking as the general manager of the City of Toronto Non-Profit Housing Corporation.

For purposes of this presentation, I had put together a memorandum which indicated, under optimum circumstances, the fastest time in which we could evict a tenant for non-payment of rent. With all going well, without administrative foulups on our side, without adjournments, it takes us three months. We're operating on a non-profit basis. We have to budget for rental losses, and those rental losses that we have budgeted for are charged to all the tenants.

It seems to me to be imperative that one of the sections of that report which is before you—the one that deals with the administration of rent collection systems—says that administration of justice must be improved, must be simplified, in part for the protection of landlords but basically for the protection of tenants who must in a number of situations bear rental losses as a cost of the operation of a project. It's budgeted, built in. My own personal view is that you should get those collections out of the courts and into a simplified administrative system where one

doesn't have pleadings, court delays, and the whole paraphernalia of the legal apparatus.

I would be prepared, if it would be of use to the committee, to table a memo which I have done, which indicates the process as we go through it and some areas in which that process, even leaving it with the courts, could be speeded up and improved. But I don't think I should spend your time today.

**Mr. Rotenberg:** When landlords tell us about this problem there is a certain suspicion about it, but when you, from the city's nonprofit housing, give us this point of view, I think it would be treated as more accurate.

**Mr. Dennis:** I will be happy to table that, Mr. Chairman.

**Mr. Chairman:** Thank you very much, Mr. Dennis.

**Mrs. Campbell:** Could you tell us the rents paid by those paying full rent, those who do pay presumably a conventional rent, and those who are subsidized? What is the present rent in your operation on a one-bedroom apartment and what will the rents be in the St. Lawrence project for similar accommodation?

**Mr. Rotenberg:** You really wonder how they compare to the market rates, say?

**Mrs. Campbell:** I just want to hear what they are.

**Mr. Dennis:** If we acquire a renovated building, the rents are lower so if we are talking about rents—

**Mrs. Campbell:** We are talking about new construction. You are not having too many renovations in the St. Lawrence area at this point of time.

**Mr. Dennis:** The one-bedroom rents range at present from \$260 to about \$290, 1978 rents. That is five to 10 per cent below market for a new one-bedroom. They would therefore serve a couple with an income in the order of \$13,000 to \$15,000, which would be below the median income for that couple in Metro Toronto today.

**Mrs. Campbell:** What bothers me is that it seems to me that you too operate on the filtering-down process. I grant that by doing the procedures you do, there is provision for subsidy for some. How do your subsidies range?

**Mr. Dennis:** A quarter to half of the centre-city units receive rent supplements and those would go to people with incomes of up to, say, \$10,000.

**Mrs. Campbell:** What would your average subsidy be? Can you give me that on the same one-bedroom apartment?

**Mr. Dennis:** Our average subsidy is running about \$170 but that's the full range of one- to three-bedroom units. I would say on a one-bedroom, it would probably be running about \$130 so that people would be paying in the order of \$150 and they would have incomes of approximately \$7,000 — a couple in a one-bedroom. But again because you are talking about a one-bedroom, it's less likely that you are talking about people on social assistance. They would be likely to be in a larger unit. You might be talking about an old couple with both of them receiving pension for example, \$6,000 income or something like that.

**Mrs. Campbell:** If I may turn to the proposals of the city, I don't think any of us would have too much difficulty with the first point. There is no question, it seems to me from all sides, that you are quite right, everyone wants at least to streamline the rent review process.

On two: I take it, although you have not put in the bottom line in this proposal, that you are looking at a rate increase of seven per cent for two years, and then bingo, it's over. Is that what you're saying?

[11:45]

**Mr. Dennis:** No. It's over if you can form the conclusion that enough rental housing has been put in place so that the kind of market equilibrium we experienced until 1972, when we were seeing rent increases of about five and a half per cent in Toronto, will be restored. If it isn't restored, you'd still have a problem. I'm hopeful this will put us into a position where it can be restored.

**Mrs. Campbell:** All right. I presume that since you've been negotiating agreements, and you no doubt have been privy to them for some time, that you have formed some conclusions about the impact, both of the St. Lawrence development, even phase one, and the newly announced developments. Can you give us some idea of what you see is the impact of that on the housing situation?

**Mr. Dennis:** I am confident you will see something of the order of 2,500 to 3,000 rental housing units a year built in the city of Toronto. The problem is we are not simply talking about a market place that consists of the city of Toronto. There's a need to get rental housing going in the boroughs and also in the area outside the city which forms part of the Toronto housing market. And so the action of the city alone will not come near to resolving the problem. It's going to take a broader action than that.

Under existing circumstances we're able to rent our buildings in a month or two months,

at an unheard of rate. I quickly reviewed the settlements that you were referring to in the paper. At most they come to 2,000 units of housing, in those 10 projects.

**Mrs. Campbell:** Rental housing?

**Mr. Dennis:** No. The agreements don't even call for it to be rental. For example, in the case of one project that contemplates 500 units, all the discussion I've heard about it has been on the basis that it would be condominium. I'm sceptical as to whether the market for condominium will be there, but there will be 2,000 units there. There will be another 2,800 units of housing in St. Lawrence, primarily rental, started in the next two or three years. But that's not enough to get you past the problem in the whole of Metro.

**Mrs. Campbell:** Neither does it affect the problem of affordability, as we see it conventionally. Your rents are too high for an awful lot of people.

**Mr. Dennis:** They are.

**Mrs. Campbell:** Unless they are subsidized heavily.

**Mr. Dennis:** They are, but on the other hand, the units are being taken very quickly.

**Mrs. Campbell:** Oh I'm sure.

**Mr. Dennis:** And all of the city's policies, in terms of relying on the filtering process, are aimed at, one, increasing the stock of housing and rental housing in the city, and two, making that rental housing as affordable as possible but with an understanding that you can't instantly produce affordable housing. Most of the housing at rents which people can afford in the city of Toronto is obviously existing housing, and was produced 15, 20 and 30 years ago.

In terms of the questions about filtering, filtering is not something that I would rely on to solve low-income housing problems. But one thing is crystal clear: Almost all low-income people—I would venture to say, most of the people sitting in this committee room—live in houses which came to them by filtering.

I've written countless reports criticizing filtering as not working fast enough and not being something that you should rely on to solve the low-income problem. But it's the only thing you can rely on to house people because we add two per cent to the existing stock annually, and 98 per cent live in houses or apartments that were built before this year. So in fact most people live in houses that came to them by filtering. That should not be the solution to low income.



That's one of the reasons that part of our presentation says—and Mr. Nowlan spoke of it—that for those people who really get hurt badly on low income go to a shelter allowance program. The way we would see phasing it in initially would be for the elderly first, because that's a definable group and it's a manageable cost. That's the only way to solve the affordability problem over time.

**Mrs. Campbell:** It seems to me that when you're building nonprofit housing, particularly when it is a cost to the taxpayers of the city, it really ought to be primarily, if not exclusively, for residents. I was startled to find, in the course of campaigning, that in your projects which are in my riding—as everything else seems to be—you had two American students declared to me, and one that I couldn't substantiate. I don't wonder you can fill your housing rather rapidly if we have that sort of policy.

May I go to question two and then I'm not going to proceed. The other members have to get into this, although I'd like to deal with some of the other matters.

You have a suggestion of a limited right of appeal. However, if, as everyone seems to suggest, we should go to a different type of tribunal—a tribunal which would deal with all of the problems related to the landlord and tenant relationship so that we could discuss, under present circumstances, the rent situation but, at the same time, tenants in the same place could discuss maintenance problems and so on—how would you deal with it where the tenant then might not be able to approach this tribunal on the basis of an appeal of rents but could, in fact, still approach this tribunal on the basis of an appeal pertaining to maintenance problems and, therefore, exercise that kind of relationship to the tribunal? It seems to me to be somewhat inequitable if only one side can go to that court for that kind of purpose; that tribunal, I shouldn't say “court.”

**Mr. Dennis:** I have two points with respect to that. One, I would be very surprised if you can get that tribunal into place earlier than a year from now.

**Mrs. Campbell:** Gentlemen, go ahead. We have people with us from the Attorney General's office who did not seem to agree with you. Go ahead.

**Mr. Dennis:** I would suggest to you that a lot of problems with the rent review system arose because the structure was built on horseback.

**Mrs. Campbell:** It was terrible. It was awful.

**Mr. Dennis:** You put rent review in, you tried it retroactively for six months. The staff wasn't there. If you tried to have all the administrative framework and the meshing of the different legal fields in place three months from now, or whatever—or even six months from now—without working it out carefully, you would be in trouble. I'd strongly support the idea but I think it's worth doing the basic research to make sure that it's going to work properly when it goes into place.

**Mrs. Campbell:** I couldn't agree more.

**Mr. Dennis:** Having said that, assume that there was no rent review, no rent control. The tribunal should have the powers that you're talking about. A tenant has the right, if the landlord is not performing his covenant to keep the premises in repair, not to pay rent that covers that proportion. If he doesn't want to run the risk of whether or not he's right, rather than take that action to pay money into court, he has the right to defend his action and make the landlord prove that he is providing the maintenance.

That should be the situation in any event. So I have no problem in saying to the landlord: “You must provide that level of service. It's a matter of policy.” And knowing from three years of experience that you can only do rough justice in the way of this kind of price control, it's going to be rough justice. You must provide that level of maintenance.

Because in most cases my assessment of our operating costs and of how those are likely to go leaves me confident that, given the fact that the rate of increase in wages and materials that we saw happening in 1973 and 1974 and 1975—which is the period in which the higher levels of rent increase were building up—has abated, a landlord should be able to keep up the maintenance of the building at least for the same price as he could last year or close to it, as distinct from being under tremendous cost pressure, I therefore don't think that landlords are going to have a substantial problem living with the seven per cent level.

**Mrs. Campbell:** I won't go further on this.

**Mr. Chairman:** Thank you, Mrs. Campbell. We have Mr. Rotenberg, Mr. Smith and Mr. Williams; and, gentlemen, if you could be as brief as possible.

**Mr. Rotenberg:** To clarify, what you're saying, in effect, is: seven per cent for the next two years and then if certain targets—but you don't know what the targets are yet—are met in new housing in the province, I gather that at least from our point of view, rent review just comes off—period.



**Mr. Dennis:** Rising to the bait that was thrown out by one of the questions earlier as to whether I was saying it should be taken off the rest of the province but not off of Metro, I think my position would be that you should look at each of the housing markets; and it's a difficult thing to do, to census metropolitan areas, for the sake of argument. In some of them where you've now got vacancy rates of 4.2 per cent or whatever, take it off. One alternative was for the province to decide to take it off, the other is to leave it to local option as to whether or not it comes off. I would say that you would have to set targets for each of those market areas that you and your officials would be satisfied would produce a sufficient market balance so that you didn't see runaway increases.

**Mr. Rotenberg:** Would the targets be from the point of new construction or would targets be from the point of vacancy rate or a combination of both?

**Mr. Dennis:** In my view, it would be a target level of new production of rental units that would result in a satisfactory vacancy rate.

**Mr. Rotenberg:** Let's carry this one step further. Let's say in 1980 we reach it for Metropolitan Toronto. In 1981 rent review comes off and for some reason the pressures build up again in 1982. Would you be saying that in 1983 we should put it back on again if we don't continue building? In other words, are you anticipating an in-and-out sort of thing?

**Mr. Dennis:** I would take the position that I didn't want to put them back on and that I was asking landlords to understand that I didn't want to put them back on and that it would be their activity which guided my conduct.

**Mrs. Campbell:** Or lack of activity.

**Mr. Rotenberg:** This gets me to the next question. You quoted David Nowlan as saying that he didn't believe rent review inhibited production. He said it and then went on to say it did. You said that you didn't believe it and he went on to say it did.

**Mr. Dennis:** No, no.

**Mr. Rotenberg:** Does rent review as such, or would continued rent review inhibit the production of rental housing in the private market?

**Mr. Dennis:** What I said was that there was a series of factors. Rent review came into place at a point in time when the housing market generally was in a very unstable condition, and it froze us or stopped us into that position.

**Mr. Rotenberg:** I got that.

**Mr. Dennis:** What I'm saying to you is the developers' motives or reasons for acting as economic men do not relate solely to regulation or no regulation. There were a whole series of other factors so that even without rent review, limited additional amounts of rental housing would have been built.

**Mr. Rotenberg:** I bought that. I understand that. What I'm saying is that we're now sitting in May, 1978. Whether we do or do not continue rent review, whether we take your two years and abandon or have it for a long period of time, will that affect the private developers and whether or not they decide to build in Ontario?

**Mr. Dennis:** Yes, it will. What I then went on to say was that the federal government produced an assisted rental program with interest free loans to developers and there were grants coming from the province. Under that program, one first began to see some activity in a number of metropolitan centres in the last year. My problem is that they've changed that program. Some developers are prepared to build under it. Others whom I have talked to are still not prepared to do so because of rent review; so it is having an inhibiting effect, but it is not the sole factor.

**Mr. Rotenberg:** Yes, I just wanted to have it for our record that you feel the long-term continuation of rent review would have some inhibiting effect on new construction.

**Mr. Duksza:** But in the context of federal policies I think you said, not by itself. Let me just clarify this before Mr. Rotenberg jumps in and misjudges what you said.

**Mr. Dennis:** Yes, in the context of federal policies.

**Mr. Rotenberg:** I never misjudge what is said.

**Mr. Dennis:** Let me take it one step further as well, and again I think I am saying the same thing as David Nowlan was. The longer rent review stays, the greater the likelihood that the process becomes more and more adversarial—

**Mr. Breithaupt:** More distortions.

[12:00]

**Mr. Dennis:** —the greater the pressure on you to hold rents down as much as possible, the wider the gap between the price of the new units and the price of the existing units. The reasonable landlords to whom I talked who didn't want to build under controls are being dissuaded because of that gap. If you visit European cities with very substantial assisted housing programs which have had

rent control for some time, that gap is almost uppermost in their minds and the private sector has built no rental housing in those cities. It has been left completely to the government and the social housing sector to build to fill that gap.

**Mrs. Campbell:** I think he is giving a good argument to the NDP position to put the rent controls on new construction as well so that they wouldn't have to worry about those gaps.

**Mr. Rotenberg:** Then there wouldn't be any new construction to control.

**Mr. Duksza:** It is called social justice, Mrs. Campbell, not inequality and discrimination against some classes.

**Mr. Breithaupt:** Everyone is discriminated against equally.

**Mr. Dennis:** If I could respond to that, though—

**Mr. Duksza:** But at least we don't discriminate against the working class.

**Mr. Chairman:** Mrs. Campbell, you must stop being so provocative.

**Mrs. Campbell:** I know, but I couldn't resist it—it's getting deeper and deeper.

**Mr. Dennis:** If I could respond to that though, Mr. Chairman. You've got people building new units under government programs where the governments of Canada and Ontario invited them into programs where they can only produce the housing if the rents go up by eight per cent to 10 per cent a year. The program requires that so that the interest-free loan and the grant from the province can be reduced on an annual basis. That gap is going to be there.

**Mr. Rotenberg:** You mentioned that the present system perpetuates inequities, that is, you know two suites in the same building would be different. Your proposal for the next two years would further perpetuate those inequities. Do you feel that the phase-out period is worth it to keep the inequities in order to develop the situation? You don't figure any change from the flat seven per cent to correct inequities within buildings in the next two years?

**Mr. Dennis:** No. I think that is part of the cost of getting out of the controls.

**Mr. Rotenberg:** One other thing, on security of tenure—and I want to question you now as a nonprofit landlord if I may—you talk about the non-rent-payer from the landlord's point of view and you talk about the non-doing of repairs from the tenant's point of view. The one problem I run into—it's maybe more with smaller than larger landlords—where a tenant is incompatible, if I

can use that word since in a divorce case you talk about incompatibility, is where the actions of the tenant make the quiet enjoyment of other tenants a problem. It is very difficult to put your finger on any one incident, but because of too much noise because of the parties, because of a little bit of vandalism, because of a number of reasons, this is an "undesirable tenant."

**Mrs. Campbell:** And a lot of police action.

**Mr. Rotenberg:** I am not talking about the tenant who is involved in the tenant action group. I exclude that from that point of view. How do we deal with that kind of tenant when the landlord—especially the small landlord who lives in his own building—wants to remove that tenant at the end of the lease, and the tenant has security of tenure? It is very difficult before a court to prove any one incident which says that has prevented my quiet enjoyment? It's a whole series of little things. Do you have any advice on that—or do you have these problems—in light of the fact that you are saying tighten up security of tenure?

**Mr. Dennis:** We have those problems all the time. I don't have an answer for you. It is a problem of facts before whatever tribunal and a problem of marshalling the evidence.

The one thing I would say is that when you have to do this in county court before judges who are rotated, and who don't get the experience that you would get in front of a tribunal, of hearing enough of those cases so that you fairly quickly develop the situation sense, that one day you are hearing motions on commercial actions—

**Mr. Rotenberg:** I think you may be missing the point. The point of my question is: Should the landlord have the right not to renew the lease under those types of circumstance?

**Mr. Dennis:** I am attempting to respond to that. Sure he should, if an objective observer said that the tenant's conduct was sufficiently unreasonable that the landlord would not have to put up with it. Your problem is, you have to frame it in some such language of disturbance, and what you are asking me is, can you leave that subjective judgement to the landlord.

**Mr. Rotenberg:** No, no.

**Mr. Duksza:** That's exactly what Mr. Rotenberg was saying.

**Mr. Rotenberg:** Mr. Chairman, with respect, I can handle my own problems. The NDP have their own strange distortions.

**Mr. Duksza:** I can interpret what you are saying, Mr. Rotenberg.



**Mr. Rotenberg:** Should the security of tenure make provision for this sort of thing, which of course has to be appealable to some sort of tribunal, in other words, if a landlord evicts him a tenant has to have a right to go to a tribunal, but should it be written in somewhere in the Landlord and Tenant Act, a little more than it is now?

**Mr. Dennis:** It certainly should, but the problem is that you can only terminate for cause.

Then you get down to what are causes and you start to put them down on a piece of paper. The problem that we have—I don't have any problem as a landlord with the present definition or the present standards—I have problems of proof. I have problems of getting other tenants to come in and explain. I have problems of convincing a judge in chambers quickly of the nature of the problem.

**Mr. Rotenberg:** I think you have answered the question. One more point, do you feel then that the kind of rentalsman or rental tribunal we are talking about would ease the problems for both landlords and tenants in that particular situation?

**Mr. Dennis:** Yes.

**Mr. Chairman:** Mr. Smith, Mr. Williams and Mr. Duszta. That will be the end of the questions.

**Mr. G. E. Smith:** In the letter, on point two, the maximum rate of increase, such as seven per cent, I assume this would be automatic, that you are recommending that the landlord should increase their rent. Do you feel this would cover the average increased costs of operation for the average landlord, not only in Toronto but throughout the province?

**Mr. Dennis:** Yes. I think the level of cost increases anticipated would be no different in other municipalities and that would leave room for the increase, yes.

**Mr. G. E. Smith:** One other question: In your own housing units, the city's housing units, do you feel in the nonprofit housing that the seven per cent would cover the actual costs charged against that?

**Mr. Dennis:** Yes.

**Mr. Williams:** Mr. Dennis, what consideration, if any, did your counsel give to the establishment of a new type of administrative tribunal that would handle not only rent review considerations but landlord and tenant? There is no recommendation here that I see that really makes reference to that particular matter, although you have commented on it personally.

**Mr. Dennis:** The matter was before our housing committee of council, which I think it's fair to say was about to endorse the idea. It then got tied up in questions which I am sure the Attorney General's staff will deal with in giving you recommendations of whether the province can do it in terms of the ability of the province to appoint judges, and whether this tribunal would in effect be a court, and whether that is a function to which only the federal government can appoint judges. I don't think that was a real problem, but because of that technical problem they deferred dealing with the matter, although I think it is fair to say that they would have had substantial sympathy for the position, and that clearly the housing committee virtually unanimously supported it. They were concerned with the technical problems of giving effect to it.

**Mr. Williams:** Coming back to this seven per cent factor, was there any consideration given to the other extreme, or the other end of the spectrum, of establishing no percentage factor, assuming that there was a continued rent review officer procedure, rent review hearing procedure or a new administrative type of tribunal set up to deal with all aspects of landlord and tenant problems, including the amounts of rent? Was there any consideration given to the validity of removing a percentage factor from any amending legislation that would come forward?

**Mr. Dennis:** No. I think it fair to say that the thought process was the one that I took you through, that the rent review situation was an unsatisfactory one. That situation should be removed. Tenants still need protection. The way to provide that protection is a flat ceiling with very limited appeals.

The essence of the position is, in fact, the ceiling. If you don't have the ceiling, then you have rent review; and it was thought the ceiling was preferable.

**Mr. Williams:** But for them to arrive at that conclusion, whether it be right or wrong, surely they must have considered all the options involved, including the desirability or otherwise of no percentage factor?

**Mr. Dennis:** No, they did not consider that option.

**Mr. Williams:** They didn't?

**Mr. Dennis:** They didn't because for that option you require a review apparatus. Their position was they wanted to get rid of the review apparatus. Therefore, the question of what percentage should be there with the review did not come before them.



**Mr. Williams:** I see. So I guess, without addressing themselves to the question of an administrative tribunal, they couldn't vary from that position because, of course, the importance of the tribunal would be that it would be able to deal with each individual case on its merits without having a percentage factor necessarily attached to it as openers.

I must say, as a side comment, I think one of the greatest difficulties of the program has been the use of a percentage factor because, no matter what the decision is of the rent review officer, if it is below the pegged amount, the tenant feels he is a winner and if it is above the fixed amount, the tenant feels he is a loser.

Using that one arbitrary criterion, it tells a lot less than the full story. All of the arguments seem to revolve around a percentage factor, which I don't think presents a full picture of the individual situations. This is why, in speaking to many people who have been involved in the process, the concern has been expressed as to whether the use of the percentage factor in fact was in the best interests of all the parties.

**Mr. Dennis:** As I indicated in my remarks, the problem is to find a principle that would govern the setting of the rent in the absence of a percentage factor. Trying to operate on the basis of cost has undesirable side effects, but you also get these huge long arguments about what it cost.

You say it doesn't tell the whole picture. The cost of the system that attempts to determine what the whole picture is, and then to form a judgement on that basis, is seen by my council as simply not being worth the effort, particularly if you are attempting to phase it out over time and particularly if you are looking at what one hopes will be, if we can get the market back into balance, a temporary program.

A great deal of the problem with rent review is that one set up a temporary program for a limited period of time without clear guidelines and a clear principle underlying it, and then got very lengthy arguments about, "What does cost mean?" and battles between the accountants.

**Mr. Williams:** I realize you haven't had the benefit of all the deputations we've had before us but, if you really sift through them and analyse them, everybody seems to come down to the one common denominator position that, as long as it's a fair rent, nobody's going to argue, either the landlord or the tenant. Invariably we then ask either the landlord or the tenant, "What's the fair

rent?" and nobody can define what fair rent is.

It seems to me that the only way you can arrive at what it is, given that situation, is to have someone who has the capacity to deal with the individual cases and, based on all the information, make that determination. I don't think you can say what is fair rent on a categorical basis and apply it right across the board.

[12:15]

**Mr. Dennis:** My position to you would be that you are asking somebody to do a horrendous job on an ongoing basis. Economists and other students of housing and markets have for generations tried to answer that question, "What is a fair rent?" The best way to determine that, if you can, is to allow the marketplace to do it. That is how we decide what is a fair price for most of the goods and services we purchase.

We are in a position now where because of the tightness of the stock, as far as my council is concerned, we can't rely on that marketplace. The faster you can get back to that and the faster you can get away from giving some bureaucrat, which is what I am, the power to tell people what is and is not a fair rent, the happier we would all be.

**Mr. Williams:** Yes, but isn't that the way of effectively keeping the lid on it? Many of the tenants who have come in have been asked the question, "Are you against allowing the landlord any increase in rent to earn a reasonable return on his investment, if it's necessary to meet his increasing cost?" They say: "Yes, if it's a fair rent, but we don't want them making excessive profits at our expense," which is understandable. Who's to make the determination? It surely has to be some arbitrator and neither of the two parties involved.

Isn't this what they're doing in BC? The system there is free of a percentage factor. Yet the administrator deals with each case on its individual merits. That person decides what the fair rent will be, which is really the end objective of the combatants in the hearing.

**Mr. Dennis:** I don't think I can say any more to you than that I am very sceptical about the ability of this independent third party to decide what is a fair rent. In terms of Mrs. Campbell's questions about what rents we charge in our programs, we have spent some years arguing with CMHC over what is a fair rent, what is a market rent and how do you determine it. This is what they and we do for our livings. We can't agree.

Mr. Williams: I believe you're in trouble.

Mr. Dennis: The capacity for argument over that is limitless.

Mr. Williams: Of course it is.

Mr. Dennis: That's why we recommend a ceiling.

Mrs. Campbell: Are you glad you asked?

Mr. Williams: I have just a couple of more questions. In item 3, which again has been discussed at some length, you say combine decontrol with a condition that a target level of rent starts be achieved in the key markets. You talk about Metropolitan Toronto in particular. In the public housing market, we have some control over that as a government. In the private sector we don't.

Some other factors which you refer to in rationalizing the seven per cent figure are beyond the control of government. In other words, we can't force the private sector to come in and build. If there's an unhealthy development environment in any municipality, whether it's the city of Toronto or the city of Ottawa or any other community where there are populations moving in, if you can't persuade the private sector to build because of this unfavourable climate, then it's a meaningless recommendation, with respect.

Mr. Dennis: If you can't persuade the private sector to build, then the pressure will be there not to remove some measure of controls. If the private sector will build, together with the public and non profit sectors, then you will be in a position to remove them.

Mr. Williams: It's a chicken-and-egg thing.

Mr. Dennis: Yes. As a government, the province of Ontario must ensure, through whatever persuasive powers it has and its own fiscal measures, that private rental housing gets built. You can't compel them. You can induce them. I'm somewhat sceptical about the new federal program. The provincial position under that program has not been announced. The province must ensure financially that enough rental housing gets built, if the province wants to see itself out of a controlled situation.

Mr. Williams: In recommendation four, Mr. Dennis, there seems to be some ambiguity here. Perhaps you could clarify what the counsel meant by that recommendation. As I interpret it, it means that if there is an outstanding municipal work order for any part of a building for any reason, no rent increase in any of the units in the building could be imposed. That's the way I read the recommendation. Surely that's not what is meant.

Could you also explain the last clause of that recommendation that no rent increase

would be approved and where a municipal work order was carried out, the cost effect of the work order would be amortized over a reasonable period? Could you just clarify that?

Mr. Dennis: What happens at the municipal level is the civil servants send nice orderly recommendations to council and then one of your committee's amendments start to pop up from the various members of council—that is a motion from one member of council twice amended, which deals primarily with the situation if rent review is to continue.

There were a whole series of motions of the cost passthrough kind which did not carry. Somehow this one came into a position, which is basically "don't have cost passthroughs but rather the control formula we've suggested." What they're saying is that in the event you continue the existing rent review system, the landlord should not be in a position to apply for a rent increase—that is, I understood it to mean when it was moved that he should not be able to apply for a rent increase for—no; I guess it means what it says: no rent increase while a work order is outstanding; and once the work has been done and the rent increase is granted it should not be payable in one year but should be amortized over a reasonable period.

Mr. Williams: Are you sure it makes sense?

Mr. Dennis: No. I have been puzzling over that—

Mr. Williams: Nor am I.

Mr. Duksza: Mr. Dennis, it makes excellent sense if the landlords are not doing their job; I understand it.

Mr. Williams: I think it is not one of the strongest, clearest recommendations; it leaves a lot to be desired. I really don't know what they mean by it, quite frankly; and I gather you are having some difficulty with it as well. I won't ask you to try to think through council's reasoning on it, because it does not seem to be reasonable in the way in which it is worded. As I understand it, it is an unreasonable recommendation anyway. I may be misinterpreting it, but it defies interpretation, I gather.

The only other point I had, that you could perhaps assist us on, Mr. Dennis, is item 5(b). Again, I find it difficult to understand the reasoning here. If I understand the recommendation properly no possession can be taken of the premises by a landlord for major repairs and renovations unless it is initiated by government. So no landlord on his or her own initiative can undertake a major renovation of his building. It has to be



a government initiative. If that is a correct interpretation—and I can make no other interpretation of it—I just cannot accept that recommendation, with respect.

**Mr. Dennis:** The recommendation is responding to a situation which has created problems in a number of parts of the city where landlords have attempted to retake possession of premises—to convert them, for example, to bachelorettes from family units. Sometimes they would do so while tenants remained in place in the adjoining units and thereby try to persuade those tenants to leave and substantially change the character of the building. Council has taken a number of actions to prevent that kind of change in the use of the building. This is an attempt to deal with it by way of the landlord and tenant legislation.

I pointed out to them that it would also present similar activity by the city's own housing corporation when it moved in and attempted to upgrade the condition of the premises. The response to that was to provide for an exception where the repairs and renovations are required by a government funding agency for the approval of non-profit housing—it was to except the city from the rule that they thought should be of general application. Again that was an amendment moved by a member of council. Both the main provision and the exception were amendments put by members of council, I am really not in a position to explain them to you other than with what I have said.

**Mr. Williams:** Is the recommendation supposed to be restricted solely to nonprofit housing? I didn't take it that way.

**Mr. Dennis:** No, the recommendation is general and they understand that for nonprofit housing it should be excepted; so nonprofit housing corporations should be able to do it but not private landlords.

**Mr. Williams:** I appreciate your clarification of the point, but my first observation remains. I would find it quite unacceptable that a landlord could not carry out major renovations. I am aware of some of the isolated situations that have occurred where abuses have crept in and it has been used as a vehicle for getting tenants out, and that is unfortunate. But I don't think that you use the exception to make the rule and apply it universally across the province in provincial legislation. There must be some other ways to eliminate those isolated situations where there's been intent. I don't think that's the vehicle to use.

**Mr. Chairman:** It's 12:30. We have 25 presentations to hear today. One lady has a

pressing appointment—Edith Justin, who's here. May I suggest that we proceed until one o'clock, another half hour, and try and reconvene at 1:30? That's the only way we're going to—

**Mr. Hall:** Yes. In all fairness, Mr. Chairman, I think you'll have to cut down on the length of comments. Things surely do not have to take an hour and a half to be expressed.

**Mr. Chairman:** I think in the case of—

**Mr. Hall:** On Thursday afternoon we're limited to 10 minutes in private members' hour to make our point, whatever the point is. I suspect these people who have been sitting in the audience here; and I think the gentlemen who have spoken to us this morning have a lot to add to the picture, I agree with all that; but considering the time frame and these people that are waiting, I think we should get a little tougher on the length of speeches and questions by our members.

**Mr. Walker:** I think the time runs on more with our questions than with the speeches that are being made. I think if we can restrict ourselves as members we have solved the problem, Mr. Chairman.

**Mr. Dukszta:** Professor Nowlan spoke for 40 minutes—a very valuable 40 minutes. But if we now introduce this new rule, I can see it cutting off one thing which I would like to hear at some length. This is maybe the first time we've heard in detail case histories of problems of tenants who go through the Tenant Hot Line and I would hate to cut that off—particularly when we have not cut off the others.

**Mr. Chairman:** Right, okay; the points have been made. We do appear to be changing our ground rules in mid-stream but we're not really. The fact of the matter is that some of the 25 whom we will be hearing from today have been here before. Everyone on the committee recognizes that, because they have their agendas in front of them. Not all, but some of them have.

Both Professor Nowlan and Mr. Dennis did represent, I think for all of the committee, an unusual opportunity to hear from two sources from whom we had not heard before. We did take some liberties in our questions and were fairly lax, I suppose, with regard to the time. That doesn't resolve the challenge that we have for the rest of the day.

I think we should proceed then for the rest of the day as quickly as possible. Could we try and come back in here then, at 1:30; and proceed now till 1:00?



**Mr. Duksza:** Why don't we have a duty roster for lunch and continue throughout the lunch? That would be one way of doing it: some people could go for lunch and some stay, and then we exchange. Then probably it would be easier for us to get through it. Just completely acknowledge that I'm going.

**Mrs. Campbell:** Mr. Duksza, if you think you could be served in the lunch room in a half an hour, you've got rocks in your head.

**Mr. Duksza:** But if we have a duty roster?

**Mrs. Campbell:** Can we get on with the question? Mr. Duksza has a question. You can't cut him off. Everyone else has tried. If he chose to—

**Mr. Duksza:** And I'm proverbially short.

**Mrs. Campbell:** Let's get on with the questions and let's get this part of it over.

**Mr. Chairman:** I would like, following Mr. Dennis, to go to Mr. Robinson, of the Tenant Hot Line; and then to Edith Justin.

**Mr. Williams:** Mr. Chairman, one point: If there are people who are on this agenda who have been before the committee, surely they should go to the bottom of the list so that people who have never had an opportunity to speak to the committee have first opportunity, in case we run out of time. I think this would be only fair.

**Mrs. Campbell:** They're speaking on a different topic. They came first on rent review—

**Mr. Duksza:** Yes; that's the main point, Mr. Williams.

**Mrs. Campbell:** —and now they're back on landlords and tenants, which was the way we set it up.

**Mr. Duksza:** We asked them to come back.

**Mr. Williams:** Landlords and tenants was last Wednesday, and rent review was the preceding Wednesday.

**Mr. Chairman:** No. Rent review was the first six Wednesdays and landlords and tenants was to be the last two—this being the last.

**Mr. Williams:** All right.

**Mr. Duksza:** Mr. Dennis, would you agree that on point four on the second page, the reason that was included was that if a landlord and tenant have a basic contract for maintenance of the building and the services, and if there is a municipal work order, that means the building has not been maintained up to standards so that should not be passed along to the tenants in the form of rent? I think that's the intent of number four.

[12:30]

**Mr. Dennis:** That is probably the general intent, Dr. Duksza. The problem is that municipal work orders can tend to be for some fairly minor items.

If municipal work orders dealt with matters of health and safety I would agree with you, but the problem is they can deal with whether or not the outside of the house has been painted or there is a crack in the sidewalk.

**Mr. Duksza:** I would say that is one of the aspects, but of course the other aspect is general unsafety, even up to a point—

**Mr. Dennis:** Yes, in those events it would clearly be understandable.

**Mr. Duksza:** In that case it would be understandable.

On number two you are suggesting a ceiling of seven per cent; in number three you have suggested when a target level is met. There are two questions, returning to that: one, it is illogical to say on the one hand that the present difficulty or non-construction of rental housing units is not related to the legislation, but at the same time to suggest that we decontrol when a target level of rentals is met—my two questions are how would you define the target; and if we don't define the target I assume then the ceiling of seven per cent stays?

**Mr. Dennis:** The way in which I would define the target would be a sufficient number of starts to ensure there was a reasonable level of vacancy, a reasonable balance between supply and demand in the marketplace.

My staff has not done a study to determine what that target level would be. I would be quite prepared to work with provincial staff on that, but it would be a matter of ensuring there was enough rental housing in the pipeline so that we could return to the balance in the decade of the 1960s when in fact the market produced a tolerable level of rent increases.

**Mr. Duksza:** You are quite in agreement that unless we have this particular target, and whatever figure is finally arrived at by the various negotiations, we stick to the seven per cent guideline?

**Mr. Dennis:** I would think at the end of two years—assuming that seven per cent is appropriate for the two years—that you would determine what was appropriate in the period thereafter; in the same way as you are reviewing the position now after two years.

**Mr. Duksza:** Yes, it is just that we would go through the same process again in two years' time.

**Mr. Dennis:** And hopefully you would find enough housing in place that the control system wasn't needed.

**Mr. Duksza:** It is a question of a tenant's right to rent more than a question of the market. Before I put one last question, if you are saying that market forces are the things that control our rents, I would like to remind you of the electronic appliances industry, both in the United States and here, which have repeatedly been convicted of price fixing; and this suggests the influence of monopoly capitalism more than the free market forces which we are so quick to ideologically and mythically describe and talk about.

**Mr. Dennis:** I wouldn't dispute that for the electronics industry or the automobile industry.

**Mr. Duksza:** They are the only two which have been caught.

**Mr. Dennis:** Or General Electric making light bulbs. But that is not the case, given the pattern of ownership of rental housing in this province. One cannot demonstrate that kind of control; the number of people who would have to get together and agree on price leadership and price fixing is really far too great.

**Mr. Duksza:** It is remarkable, Mr. Dennis, that free market forces now only operate in housing. It is useful to hear, I must say.

**Mr. Hall:** Another of your myths destroyed.

**Mr. Duksza:** The last question on number four is that it suggests a sort of welfarism approach to the senior citizen, that you take a target group which needs it instead of accepting that everyone has a right to housing. We move again, once more towards welfarism instead of accepting it as a right.

**Mr. Duksza:** My personal position, and I am fairly confident it would be my council's position, is that a universal shelter allowance program would be something towards which one should move. However, it was the feeling that if one recommended that immediately one would say pie in the sky. If you were to try and bring in a shelter allowance system, the way to do it would be the way it was done in British Columbia, to test it, because there are substantial cost ramifications, on one specific group, and then to move it in with other groups over time. In terms of my recommendation, I put it in with respect to one group because that is the best way to have a test group on which you can control

costs. If one recommended bringing it in for the whole of the low income population, the cost would be too great. I made such a recommendation eight years ago to the federal government and it has not been acted on.

**Mr. Duksza:** I am happy you accept the right to housing is a basic right, however you call it, and what you have suggested to council in number four was only because that's all you thought you could get through this reactionary committee. I am in agreement with you.

**Mr. Dennis:** I hope the council of the city of Toronto acts with a certain political realism.

**Mr. Chairman:** Mr. Dennis, thanks very much for your time. Mr. Robinson, Tenant Hot Line. I understand you have quite a lengthy brief.

**Mr. Robinson:** It will take about half an hour to get through it all.

**Mr. Chairman:** I wonder if we could do this; would you give the clerk copies of your brief so all members can receive it? Obviously, under the time constraints, we won't have an opportunity for you to read it. If you could just verbalize the key parts of the brief, we will have your written document which we can read.

**Mr. Duksza:** We should at least give him the same opportunity that Dr. Nowlan had to make a presentation. How can we really question Mr. Robinson unless he makes a presentation?

I realize the time is limited and we have work to do, but we have been luxurious up to now in terms of our time allotment. Now that the tenants are coming to present unique cases, as with Tenant Hot Line, we should also give them the full opportunity to present their cases.

**Mr. Chairman:** Mr. Duksza, let me ask you for some help on this. Edith Justin has a doctor's appointment which is quite pressing. She, too, has been waiting all morning. Would it be reasonable, in light of what you said, and there is something to it, that perhaps Edith Justin could come forward now?

**Mr. Duksza:** That would be acceptable; and then Mr. Robinson can come back to give us a more thorough presentation.

**Mr. Walker:** That will give us a chance to review the brief over the lunch hour.

**Mr. Duksza:** I never quarrel with keeping a doctor's appointment.

**Ms. Justin:** My name is Edith Justin. I am a very small landlord and also a realtor in



a downtown part of Toronto, Cabbagetown.

The situation I am going to deal with is one of great practicality from a small landlord's point of view. We have to operate in the same manner as the very large landlords within the frame of the Landlord and Tenant Act, which is not quite, the right name as far as most small landlords are concerned. We tend to look at it as the exploitation of the landlord by the tenant with the connivance of all levels of government.

The point of the matter is, I have been listening all morning to you talking in terms of leases and expiry of leases and long term situations.

In the downtown part of Toronto very often people rent by the week, and they certainly do not have leases nor do they need leases due to the fact that very often they wish to move. That is their right to do so. There exists, therefore, a contract between willing parties. They can give us a week's notice to vacate and we can give them a week's notice to vacate, which I believe was the basis of a contract. However, along comes the Landlord and Tenant Act and no longer do contracts provide any rights whatsoever to the landlord.

The point is, you want a quiet life. In the majority of instances, you have a happy tenant and you are happy, everything proceeds smoothly. The only time a landlord gets troubles is when he has a bad tenant; when the tenant is not paying the rent, is dirty, or abusive, or drunk, or violent, or moves in another half a dozen tenants with him in contravention of any number of laws for which you as a landlord personally are responsible. You are held responsible for overcrowding by the city if it becomes known.

Under those circumstances tenants are very well aware of the Landlord and Tenant Act and immediately tell you when you give them notice that they do not have to move. Therefore, they say, "What are you going to do?" The point is you have no alternative. There is actually nothing you can do when they are not observing the contract between you, except pay a private lawyer and take time and wait to go to a court.

In the meantime, I might add, the tenant is receiving legal aid for free; so compounding the fact you are not being paid and the fact the place is being vandalized, you are being victimized as a taxpayer. A side argument is you are paying to try to receive justice you are not receiving and the tenant is being elegized while receiving taxpayers' money to combat you for breaking a contract that was between you.

I am not the only landlord in that position. I would suggest, with all due respect, that you cannot continue to have the same law applicable to the segment of tenants who are economically sound and sueable, and that aspect of the community who are not sueable. The point is, what difference does it make if you get judgement eventually? What are you going to do, paper the wall with it? The last and only time I had to go to the courts to obtain possession of a property I lost six months' rent and another \$400 in respect of legal fees; plus the vandalism and damage, the removal of garbage and broken glass and debris—and the animosity engendered by my tenants for which neighbours hold me responsible. This led me to the conclusion, like a large number of other small landlords, that this house is better off sold because one's blood pressure cannot stand it.

I am saying to you, with all due deference, there is an inequality existing in this Landlord and Tenant Act. I do not think the landlord in the majority of instances, and certainly not small landlords who need this rent coming in to sustain the property, can afford the law to stay this way and still remain landlords. They will continue, as they have been doing, selling off their properties or not renting their flats.

This leads me to the point that yes indeed, the city of Toronto and every other municipality is having to move into the void the small landlords are creating by leaving in great haste. Every unit they add to the housing they are having to provide is being subsidized by us as taxpayers. I would like to know how they can arrive at a set amount for the projected rent increase allowed when they cannot project how many housing units they are going to have to provide at cost of the property taxes?

I have no complaint in a large number of instances with Mr. Dennis' proposals, since he was trying to wear two hats—one as a landlord and one as a city of Toronto employee, which is a very difficult situation.

**Mr. Duksza:** He was equally ambivalent about both.

**Ms. Justin:** That is your opinion. The point is any landlord, including the province of Ontario, the city of Toronto and Ontario Housing is in the same boat as any private landlord. If the current concept is all landlords are gougers and exploiters of the poor or whatever, by what name does the province wear the same laws we have to live with? That is my submission; thank you.

[12:45]



**Mr. Williams:** I think it is a very interesting presentation you make, and it certainly brings a degree of balance to some of the arguments that have been put before us. May I ask you, madam, how large a rental income operation do you have? Is it a flat, a four-plex, a duplex?

**Ms. Justin:** I have three apartments above my office and I have two other individual houses; one is in the city of Toronto, where I have had a tenant for the last eight or nine years—quite satisfactorily, thank you—and one out of town, outside of Kingston, where I have had a great deal of problems in the past.

The difficulty comes because in my business, which is real estate brokerage downtown, I hear all the complaints voiced by every other small landlord who is beside himself with rage and humiliation as a result of the situation he is put to in defending the fact that he is being beaten by these defaulting tenants. They truly believe this is being done deliberately by government, because after all you people did make these laws.

As well as the large people, you have the small people. The large people get the first and last months' rents and they have people who are in set occupations. The people in the rooming house business, who after all provide furnished accommodation by the week, are not in this position; their problems are much larger and more immediate. But the point is that they are being made to abide by the same laws, and I suggest you change your laws. It's as different as the skin-on-your-face kind of thing.

**Mr. Williams:** It's not the rent review act that troubles you; it's the Landlord and Tenant Act where find your greatest difficulty.

**Ms. Justin:** Yes, all right. Certainly the Landlord and Tenant Act gives me more problems because you have to face the fact that, with the economic situation at this time, you are not making any money. If you look at the listings that come through on the multiple listing service—for threeplexes, six-plexes, eightplexes, apartment buildings, you name it; there is no return on that income. It's one thing to have no return, but it's another thing to be so hamstrung by all these laws that you have this frustration as well.

**Mr. Williams:** I presume that the greatest difficulty you have is with the time factors that are imposed under the act for seeking legal redress?

**Ms. Justin:** Yes, the time factor as well, plus the unnecessary cost to you as an individual when the citizens are paying for this man—man or person—who is at fault.

**Mr. Williams:** I presume then that you would be supportive of a less informal type of administrative tribunal being set up that could expedite the dealings with landlord and tenant matters, rather than having to go through the formal proceedings that are currently required?

**Ms. Justin:** I'll tell you what is an absolutely mandatory thing before anything is done as far as I'm concerned: the law reads that you can withhold the rent for non-provision of services and then seek legal redress against your landlord if he has given you notice. But that is being flouted. That so-called withheld rent was supposed to have been paid into court. In no instance is that rent paid into court. It's not being withheld, it's just not being paid, which means the landlord cannot attain that rent so every day that goes by is at his personal expense.

The law should be upheld. If someone has the right to go to law, let him live by the law and let him pay into court the rent he has not paid as being withheld. Otherwise, by me, he has broken his contract and is not entitled to anything, the contract is broken. The landlord was to provide accommodation, which he did; another person was to pay the rent he was prepared to pay upon entering.

It should stand that the money is paid into court before he is allowed to take further time of the landlord, before an application for eviction is made. If he is bona fide, as let's presume most tenants supposedly are bona fide, let him pay the money into court to prove his bona fides and then apply for legal aid.

**Mr. Williams:** Very interesting. Thank you.

**Ms. Justin:** Thank you very much, gentlemen.

**Mr. Chairman:** Thank you, Ms. Justin. Is there anyone here who has a short presentation to make?

**Mrs. Laxton:** I'm Ruth Laxton. I'm a very small owner; eight small rooms over two stores in the Yonge and Lawrence district. A person sometimes makes an error in choosing her tenants. I chose one particular tenant who has lived there for two years and instigates for the others. Whether he works or not, I couldn't tell you. He seems to be a helper for all the others—there are eight of them there. They became very close friends. They make parties all night or all day.

I tried once to get him out because of the unhealthy and unclean condition in which he lives. Another tenant across the corridor spoke up for him and said in court, "Nobody is wrong." She saw nothing there. I wanted to bring someone in with me to see the condition of his apartment twice. He wouldn't even let a plumber in. You have to give him 24 hours' notice. But all the plumber found was the lever from the plumbing unhooked. So he hooked it on, flushed the toilet and said, "Fine."

As soon as the plumber left, this particular tenant called me again and said, "The plumbing is too old," and he wanted new plumbing. That meant maintenance of the premises. He got a legal aid lawyer, which cost him nothing; it cost me over \$200. He wasn't going to pay the rent. But he did pay for a one-bedroom apartment, \$175 a month, in the end.

I'm 100 per cent satisfied with the rental. I will abide by any rental income that happens to be legal; but when I have one tenant who is absolutely obnoxious, unclean, leaves bags of garbage at his back door, which are not hazardous to the fire escape being available but are there for spite, why shouldn't I, as a landlord, be able to say, "Here's two months' notice, here's a month's notice, give up the premises?"

I made a mistake by renting it to him as a monthly tenant from the beginning; I would be able to accept the rental "as is," but I feel that I have a little bit of right to make a rule.

Three years ago I accepted a tenant for the same premises who pleaded with me. She had one cat. Two or three months later, I discovered she had brought two cats. From these two cats came a litter. She passed around the cats to other tenants. Now there are 12 cats in that particular building.

There is nothing I can do about it. When they take down their litter in plastic bags, the litter spills through one corner. I have some-

body do my halls and the staircase once a week. But the litter is on the stairs the same day or the following day, where I have to step into it. I have found litter from cats lying in the way of the entrance to the basement. There isn't anything I can do except clean it up myself.

Anything that I want there, I personally have to look after. She gets a legal aid lawyer to help, if I take anybody to court the judge is 100 per cent pro tenant because I have no witnesses. I can't take anyone from the street, especially a business person, and ask him to help me out. Why should he help me out? Money isn't supposed to pay for a witness.

I have a tenant I'd like to change for personal reasons, for the animosity he has for me. I have heard him say to me in private—no one else heard it—"This will stop your clock." What will stop my clock? I have no witness to this. I would have no comeback whatsoever, should I take him to court over what he meant by "stopping my clock" for coming around to him and giving him a note saying: "you must take your garbage where it belongs; you must not spill it on the stairs" or for whatever reason I might have to speak to him.

Thank you very much. There's very little to add except to say tenant protection is very good if you get good sensible tenants in the building, but not when you get one tenant such as this among eight. I made a very bad mistake two years ago and I have suffered since.

**Mr. Chairman:** Mrs. Laxton, even though other members of the committee have left, your comments have been recorded. I know they will be reading the transcripts. Thank you for taking the time.

**Mrs. Laxton:** It's true. I have nothing to hide.

**Mr. Chairman:** Thanks for taking the time. We will be back here at 1:45.

The committee recessed at 12:57 p.m.

## SPEAKERS IN THIS ISSUE

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### Witnesses:

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Harriman, A., Member, Board of Appeals, Ontario Rent Review Program  
Justin, E., Landlord  
Laxton, R., Landlord  
Nowlan, D., University of Toronto  
Robinson, J., Tenant Hot Line, Robinson Residences













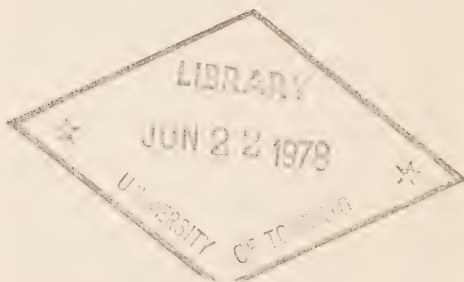
No. G-19

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **General Government Committee**

Sessional Paper 13, Report on Policy Options  
for continuing tenant protection



### **Second Session, 31st Parliament**

Wednesday, May 31, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 31, 1978

The committee resumed at 2 p.m.

## TENANT PROTECTION (continued)

**Mr. Chairman:** Mr. Robinson, would you come up and begin now? We have a quorum. Would you please identify yourself and your group for the record?

**Mr. Hale:** I'm not Mr. Robinson. My name is Kenneth Hale; I work with Tenant Hot Line. This is Eileen Wilke. She works there also. Tenant Hot Line is a community legal clinic funded by the Ontario Legal Aid Plan to give advice, information and representation to tenants involved in landlord-and-tenant disputes.

Our presentation to the committee is in two parts. We are only going to go through one part. That is our brief, the white paper. Our red paper in the green cover is provided for your information and to give a little different perspective on what options could have been available for the government to study.

Ms. Wilke will go through the sections on rent review. I will speak on the Landlord and Tenant Act amendments and our proposals for collective bargaining for tenants. Then Ms. Wilke will finish up with our views on housing policy.

**Mr. Chairman:** May I ask at the outset if it is your intention to read the brief? I only ask because of the time problems that you know we have and because it is a very comprehensive brief which all members of the committee do have. I would just say, if it is possible to highlight it, it would be helpful for all people.

**Mr. Hale:** I think it would be difficult just to highlight it. We'll try to read through it fairly quickly, leaving out any parts that aren't necessary to get our point across, if that's all right.

**Ms. Wilke:** The first topic is rent review. Both the analysis and options put forward in the green paper reveal an unconcealed bias towards the landlord-developer and a total lack of concern for tenants. It could well have been written by HUDAC or UDI and certainly seems to have pleased them both. Tenants, on the other hand, have re-

acted quite differently. They are growing more and more concerned about their future as tenants and see little encouragement in the green paper.

To call it a policy for continuing tenant protection is the ultimate in cynicism when, at best, it proposes leaving things as they are and, at worst, threatens to remove much of the protection tenants have gained over the past several years. The landlord only stands to gain and the tenants to lose. The question is by how much.

The basic assumptions which the green paper accepts without question are: Private developers are the only ones that can provide good, affordable rental housing. There won't be any new construction or maintenance of existing stock unless profits are great enough. Profits are too low. Costs increase, for example, land, financing, building materials, et cetera, have been normal response to the free market supply and demand, so they can't be interfered with. This leads to the logical conclusion that rents must be raised dramatically by, one, getting rid of rent review or watering it down; two, substantial subsidies, direct or indirect, to the landlord-developer; or three, a combination of them both.

It seems that this is what the government hopes it can get away with without being voted out of office. The developers on their part are coming out loud and clear. To the government they say: "Don't control our profits or we won't build," and to the tenants: "We have to charge you rents you can't afford now so that in the future we'll build housing you will be able to afford." The self interest on the part of the developers and the subservient attitude on the part of the government is becoming increasingly evident. This is why we felt compelled to submit to the committee the forgotten options for continuing tenant protection, which is our red paper.

The tenants in this province cannot afford the elimination or any watering down of the present rent review system. On the contrary, they need rent control. The problems of the existing system are:

1. Insufficient substantiation of landlords' costs and revenues and insufficient time to



scrutinize what there is, in fact removes any possibility of a fair hearing for the tenants and makes many decisions at the rent review office pure fantasy. Tenants in numerous hearings that we attended left with the strong impression that the landlord was lying through his teeth or that the rent review officer was either a naive fool or in out-and-out collusion with the landlord.

We recommend that tenants get all information at least two weeks prior to the hearing and that information be more substantiated. We also recommend that commissions be empowered to audit landlords' books and accounting practices on a random basis or on suspicion of false or misleading information.

2. The difficulty of determining if certain expenses are at true market value or even expenses at all. Because of the considerable horizontal and vertical integration of many cult to determine the non-arm's length nature of the larger developers, it is extremely difficult of many of the transactions that would influence a rent review officer's decision on granting a rent increase.

It is quite common to see one company buy land or a building, receive financing, rent land, and purchase goods or services from a related company. We dealt with one company which rented land from a related company and borrowed money from the same company to pay the land rent. Tenants were asked to pay for non-existing expenses. In one case it was allowed and tenants received rent increases exceeding 20 per cent. In another it was disallowed and tenants got an increase close to the guideline.

We recommend that a landlord be compelled to state specifically whenever he enters into a transaction with another company that is in any way connected; for example, common officers, directors or shareholders. This would also include any transaction where the beneficial owner is disguised behind a trust.

3. The exorbitant rent increases resulting from sale and refinancing of buildings. We believe this to be one of the biggest loopholes in the cost-passthrough system, and encourages instability in the housing market as landlords shuffle around buildings, effectively freeing them of controls. We recommend that financing costs be completely removed from the cost-passthrough system and only increased operating costs be passed on.

4. Maintenance is not sufficiently tied to rent increase. We feel that no increase, or even a reduction of rent, should be permitted to buildings below municipal standards; a decrease in maintenance standards be considered as a rent increase; maintenance costs

related to bringing a building up to municipal housing standards not be passed on to tenants except for minor day-to-day items; a landlord and tenant commission should be empowered to inspect buildings and work closely with city departments.

These are all now presently embodied in the Landlord and Tenant Act but have proved extremely difficult and burdensome to enforce. They would prevent a deterioration of the present housing stock and, in some cases, an improvement would be noted.

5. Inefficient management is rewarded, not penalized. As it stands now, an owner who because of gross incompetence spends twice for the same item will be allowed twice the rent increase. We recommend that the onus be on the landlord to not only prove that he spent the money but also that it was absolutely necessary, for any amount exceeding that spent on the same item for a similar building. Also, in determining the gross potential revenue, the vacancy rate allowed should be no more than the average vacancy rate for the area.

6. No maximum rent increase ceiling. The problem is not that the ceiling on rent increases has become the floor; the problem is that there is absolutely no ceiling. We feel that the average rent increase permitted, not to mention the exorbitant ones of 20 to 30 per cent or more, is too high at 12½ per cent. We recommend that there should be a maximum ceiling that no landlord may exceed in any one year.

7. No control rent registry. We agree that there should be one and it should describe unit and facilities and include rental history since January 1974.

8. No enforcement. The real lack of teeth in the present system has made enforcement a joke. Abuses are widespread and will continue unless the commission takes on the task of investigating and prosecuting cases of false information, illegal rent increases, et cetera.

9. Limited dividend buildings. Limited dividend buildings that are privately owned are subsidized or insured by the federal government through Central Mortgage and Housing Corporation under section 15 of the National Housing Act. Their possible exclusion from rent review is on the basis that rents on such units are subject to the control of Central Mortgage and Housing Corporation. The rent increases approved by CMHC have been among the highest going to the rent review program.

Since CMHC insures the mortgage in these projects, their main concern is with keeping rents high enough so that the mortgage will be paid, with the result that tenants have

little protection against rent increases. The only guarantee under the program is a guaranteed profit for the landlord for his investment. Where limited dividend buildings are located among other conventional buildings, it becomes apparent that low-income tenants pay not only for services that they don't receive, but also for the luxury of the surrounding buildings.

Rent review has not only given limited dividend tenants access to their landlord's financial information but also some participation in the process of rent determination. CMHC has shown a total disregard for and lack of moral responsibility to limited dividend tenants. Under CMHC methods of calculation, the landlord is allowed large administrative costs, the limited dividend, contingency funds, replacement reserve funds, interest on prepaid rents as an expense and depreciation. Rent review disallows some of these costs which results in a reduction of the percentage increase granted by CMHC.

Limited dividend landlords have become expert at being able to reflect on paper a financial loss. One limited dividend landlord with a revenue of over \$1 million and a mortgage payment of \$300,000 has a financial loss of over \$100,000 while the building does not even reflect \$50,000 worth of maintenance. Where limited dividend landlords stretch the financing provided by CMHC, which is 90 to 95 per cent financing, to cover the entire cost of the project, they are not only receiving an illegal five per cent profit, but the tenants are creating equity in the building for the landlords and their heirs.

Given the above situation which merely scratches the surface of the problem, it would not only be criminal of this government to exclude limited dividend tenants from rent review, but would only imply complicity with CMHC and landlords to deny low-income tenants their rights as tenants in this province.

**Mr. Hale:** As throughout most of the green paper, the document belies its name of Options for Continuing Tenant Protection when it deals with changes in the Landlord and Tenant Act. Virtually every recommendation removes protection now available to tenants under the act or further undermines the concept of security of tenure. Changes brought about by the 1975 legislation are now only starting to be reflected in landlords' attitudes.

Dealing with the specific suggestions in the green paper regarding changes in the Landlord and Tenant Act, we agree that assignment and subletting cause a great number of disputes. However, these problems do not

arise from the unrestricted right to sublet. We find it very difficult to convince landlords that the tenant has such a right. As long as this attitude prevails, the new tenant is quite likely to decide not to move into a hostile environment.

The problem arises often in the context of a monthly tenancy with its 60-day notice period, a situation which could be remedied by amending this requirement to a more logical 30-day period. Where there is a lease, provision for early termination by the tenant for a variety of causes would solve many disputes.

The major problem we see in this area is the legislatively-authorized ripoff called the sublet fee. Thousands of tenants in this province have been charged \$75 and \$100 each and often more for the privilege of having the landlord sign his or her name to a document accepting someone the tenant has advertised for and found.

[2:15]

Section 91(5) of the Landlord and Tenant Act, which says a tenant can apply to court to determine any question about subletting, offers inadequate protection considering the amounts of money involved. An outright ban on these payments would be the most practical solution to this problem, especially in the context of controlled rents with landlords looking for revenue not subject to control. The costs contemplated by section 91(4), the landlord's costs incurred in granting his consent for subletting, are generally built into the administration costs of the building.

Other costs such as those incurred by a landlord when finding a tenant to sublet could be allowed, but only in situations where there has been a real voluntary contract with the tenant for these services and where the tenant has the choice of doing it himself. We support the proposal in the green paper that there should be no liability to the tenant after the subtenant has taken possession.

Unspecified changes are proposed for the procedure in eviction for arrears. Much of the delay that allegedly causes disasters for small landlords is a result of the case loads of the county court chambers judges and the sheriff's office.

Cutting down tenants' rights as to notice and repayment periods will do nothing to affect these situations. Temporary financial difficulties of tenants must be contemplated and not be made the cause of disruptive evictions. A very common situation these days is one of a tenant being laid off from his or her employment. Why should this



person be evicted while waiting for the federal government to come up with the unemployment cheque? The 14-day payment period and allowance for money being paid into court recognizes these situations and allows them to be remedied to some degree.

One necessary amendment may be clarification of section 103e(5) as to when the judgement becomes final. This section says that the tenant can pay into court the arrears and the costs at any time before the judgement becomes final and the action is stayed.

We have heard explanations of this section from various county court judges, clerks and other officials ranging from the time of the pronouncement of the judgement, the time it is entered, to the time that the appeal period has elapsed. It isn't really clear when the judgement becomes final. We feel the latter was the intention of the legislation but this should be made more explicit.

Finally on this point, we have seen so many cases where landlords do not keep proper records of payments made and persistently charge rents above those permitted by the rent review act. So, it must not be assumed that where an application has been brought for arrears of rent, it is against some deadbeat who refuses to pay rent.

Very often there are legitimate disputes to these applications and any legislation which diminishes one's right to submit a legitimate dispute should be repugnant to our system of justice. Related to this is the suggestion that over-holding tenants be made liable to landlords for damages where the landlord has made a tenancy agreement with a new tenant. We feel that such a provision would only be a further deterrent to legitimate disputes.

A tenant who is given a 20-day or 60-day notice and decides that the stated cause does not justify an eviction is already taking a gamble that the judge will not agree and he will face a hurried move. To add a liability for a contract with a new tenant onto this would only result in greater freedom for landlords in giving vague or fraudulent notices and perhaps correctly suggesting to tenants that it is not worth their while to fight it.

The green paper's major pro-tenant recommendation in this area is that acceleration clauses in leases be abolished. We thank the authors for their concern but we note that no landlord in our experience has ever been foolish enough to attempt to recover money under these clauses. They serve their purpose to landlords by existing as a threat to uninformed tenants as they would, undoubtedly, continue to do after being declared

void and unenforceable in the Landlord and Tenant Act.

With respect to the problem of abandoned property, we support the concept of statutory guidance in this area but feel the emphasis should be on the protection of the property and the location of its owners and not with the inconvenience to landlords. The reverse side of this problem is that of landlords retaining personal property of the tenants after the tenant has gone out of possession against the tenant's wishes. This is commonly known as distress.

We feel that this occurs frequently enough to be of as much concern to the writers of the green paper as abandonment. We would like to point out that the statutory prohibition of such conduct, section 86, has not eliminated the practice by irresponsible landlords, especially in rooming houses.

The sixth and seventh suggestions in the green paper lead us to believe that the government is serious about ending security of tenure for tenants in Ontario. Obligations in a tenancy agreement cover a multitude of sins. In a standard UDI lease, under which hundreds of thousands of tenants in this city live, apart from the 23 paragraphs of the lease itself there are 43 rules and regulations which purportedly form part of the agreement, all of which are non-negotiable by the tenant.

We feel that it is imperative that a breach of one of these terms not be a ground for termination or even of a legal proceeding to determine their reasonableness and that the causes for termination be clearly laid down in the statute. Problems of interpreting if statutory grounds have been sufficient demonstrate the grave difficulties of interpretation that would arise if such a vague cause for termination as breach of reasonable obligation existed, especially if this function was delegated to non-judicial officers.

The proliferation of these rules and regulations illustrates once more the inequity of the bargaining situation between landlords and tenants. Tenant protection means ensuring that tenant security is not a negotiable item.

Regarding other causes for termination, while the provision for providing vacant possession in an under-three-unit building does not sound unreasonable, it would undoubtedly become just another loophole in tenant security. We would suggest that your consultants do a study of the already existing causes for termination which are not related to tenant default; that is, sections 103b and 103d, to determine how often the renova-



tions, et cetera, were done or the landlord or his relatives moved in before adding another such cause.

We also feel that no termination should be allowed under such sections unless the tenant is compensated for moving expenses. Such a system of compensation would no doubt cut out many non-bona-fide notices and applications. At present, vacant possession by a vendor can virtually always be assured if reasonable compensation is offered to the tenant.

On the subject of causes for termination, we would like to point out one section of the act that we feel presently does not live up to the promise of security of tenure. Section 103f quite properly embodies the principles in subsection a, c, d and e—these are the 20-day-notice causes—that these causes for termination, though serious, may be corrected by the tenant within seven days. Thus, one does not lose his home for a one-time act of negligence or inconsideration.

However, the next section, 103g, takes this right of correction away from monthly and weekly tenants or tenants at the end of their lease term who have been given a 60-day notice. This section is incompatible with security of tenure and should be eliminated in so far as it deals with causes for termination that have a correction period in the previous section.

In summary, it is our position that there should be no "landlord-caused" terminations without compensation to the tenant and no "tenant-caused" terminations without a period of correction.

The eighth suggestion of the green paper concerns rights of tenants against other tenants. In the present context of landlord and tenant relations, the landlord is responsible for the management and administration of the buildings they own. Why this responsibility should be abdicated to tenants who have neither the financial resources nor the expertise to carry it out is unclear, to say the least.

Disruptive tenants are a serious problem to other tenants in the building. But to give tenants the responsibility for removing such people is only going to aggravate intertenant disputes, when often they have a common grievance against the landlord. It will make the "small minority of landlords" referred to in the green paper even more uncaring about the protection of their responsible tenants.

We feel that this problem could be dealt with by having a right vested in a tenant to take action against the landlord, either by way of an expanded covenant for quiet en-

joyment as recommended by the Ontario Law Reform Commission in 1976, or by a statutory term including a summary application procedure to be taken against the landlord. The landlord has the means, financially and in law, to have disruptive tenants removed.

The next policy area is the proposal that there be a forced renewal of leases. While the "freely bargaining parties" theory of contract law is somewhat of a joke in the context of residential tenancies, to have the courts as well as the landlords' pressure tactics available to impose an "agreement" on a tenant may be stretching this theory, as well as the English language, beyond belief.

We support the recommendation of the Federation of Metro Tenants' Associations that there be a standard form, monthly or weekly, renewing tenancy agreements. Coupled with this, we would recommend that the notice period be reduced to 30 days for monthly tenants and, at most, 14 days for weekly tenants.

We cannot understand the rationale behind requiring two months' notice for a monthly tenant. We have seen this provision work hardship on tenants over and over again in the form of subletting fees, law suits for lack of notice, threats resulting in unjustified payments, et cetera.

Consider the position of a monthly tenant in Toronto. In order to move, he must find a landlord who, in the atmosphere of a less than one per cent vacancy rate, is willing to keep an apartment vacant for more than two months so that the tenant can comply with the legal requirements of notice to his old landlord. Obviously this will not happen, so the tenant must make some arrangement either to pay double rent, find a subtenant, or make payments to his old landlord to relieve himself of his statutory obligation. Surely this result was not intended and we feel that this oversight should be corrected.

We also think it is essential that the security of tenure provisions be broadened to include security against evictions by mortgagees. I have seen a number of cases where a mortgagee forecloses on someone and gives a tenant seven days' notice to move. We think that security of tenure should also include some rights against these people.

It is our opinion that if changes are to be made in the substantive provisions of the act, then these changes should be directed towards the express object of the legislation, remedial measures for the protection of the homes of tenants. These proposals from the law reform commission, a document that was obsolete before it was printed, should not be considered by the committee.

Clarification and codification of the law as recommended in that report should still be sought after. An important example of this pertains to the withholding of rent. From reading section 89 of the Landlord and Tenant Act which says that covenants are interdependent—it doesn't even say that; that's what the marginal note to it says—it's virtually impossible for a layman tenant to ascertain that he has, in certain circumstances, the right to withhold rent. Expanding and clarifying this right could save untold hours in court time, the time of municipal officials, lawyers, et cetera for landlords' breaches of obligations and repair responsibilities.

Rent deductions for repairs done by the tenant and damages for non-repair should be authorized and encouraged as methods of cutting down government expenditure on administration of Landlord and Tenant related legislation.

With respect to the forum in which landlord and tenant disputes are to be resolved, we support the submission of the Federation of Metro Tenants' Associations for the establishment of the residential tenancies commission. However, we would like to make some comments and suggestions. In order to be effective, such a proposal would require great care in the drafting of the legislation and the choice of personnel to administer such a system.

We hope that all you have heard about rent review officers is enough to convince you that these people cannot just be handed the difficult problems of resolving evictions and other disputes. We must leave it to the legislators to be creative in establishing criteria for the staffing of such a tribunal and to ensure that there's true tenant participation in the process.

What we are trying to warn against is the hasty setting up of a thrown-together tribunal to be in place before the expiry of the current Residential Premises Rent Review Act. Under the pressure of such a deadline, compromises will be made that will result in bargain basement justice.

We agree that the jurisdictions divided among the county court judge in chambers, small claims court, housing standards appeal committees, et cetera, should be consolidated and rationalized. Where such steps have been taken in other areas of the law, for example Hamilton's unified family court, they have been done deliberately and with great care. We don't think the tenants deserve any less.

At the root of many, if not most, of the problems that Tenant Hot Line deals with is the complete lack of responsiveness by

most landlords to the legitimate requests of their tenants. We feel that this is one of the major problems in landlord and tenant relations. We try to assist tenants to obtain this responsiveness as to other community and legal clinics and other community groups and agencies. Limitations on our resources and the epidemic proportions of this problem lead us to believe that the best solution would be direct negotiations by landlords and tenants on some equal basis over the important issues affecting tenants' homes.

This is why we propose in the next section consideration of a system of collective bargaining rights for tenants. In its review of landlord and tenant law, the committee should give consideration in instituting such a system. This has been an objective of the Federation of Metro Tenants' Associations since 1974. Because it is a dramatic departure from the current scheme of landlord and tenant law, we recommend that legislation not be introduced until there has been ample time to hear submissions from tenant groups.

The right to collective bargaining should be enacted as an additional section to part IV of the Landlord and Tenant Act. It should set out the ground rules for official recognition or certification of tenants' unions or associations as a bargaining unit in which the landlord would be obliged by law to negotiate with.

The residential tenancies commission, as outlined in the FMTA brief, should oversee the collective bargaining process much as a labour relations board deals with labour-management relations. The commission should also offer a voluntary arbitration service.

[2:30]

The initial purpose of collective bargaining should be to enable tenants to bargain with the landlord over basic issues such as rent, maintenance and evictions. The long-term development of the system would allow tenants to bargain for a greater share in management decisions such as additional services, major renovations or improvements, replacement of management staff for cause, tenants' rights to make minor repairs and mandatory consultation prior to any eviction action affecting members of the association.

The power of labour unions to win concessions is based on the right to strike. The power of tenants to bargain can only be based on the right to withhold rent under certain specified conditions and such a right should be clearly spelled out in legislation.

As a safeguard to both landlords and tenants, it may be desirable to require the rent



legally withheld for a period exceeding one or two months be deposited in a trust account or with the commission.

While the right to withhold rent is essential to give tenants negotiating strength in collective bargaining, it should be available to all tenants, including those renting a house or flat where there is no possibility of a tenant group forming.

We propose that rent withholding should be sanctioned for the following reasons, which are basically breaches of covenant by the landlord of his tenancy agreement:

1. Where the landlord has cut off or failed to provide and maintain essential services;
2. Where the landlord has failed to comply with work orders or with orders of a court or the residential tenancies commission for repairs;
3. Where the landlord has failed to pay interest or has collected an illegal deposit;
4. Where the landlord has overcharged the tenant;
5. Where the landlord has refused to negotiate with the legally certified tenants' bargaining unit;
6. Where the rental unit has been rendered uninhabitable by fire, flood or accident; or
7. Where the landlord is seriously interfering with the tenant's reasonable enjoyment of the premises.

Strict rules similar to those in labour relations must be written into the collective bargaining law to prevent certification of tenant groups organized by the landlord or his agents.

Any groups of three or more tenants should be sufficient to form a bargaining unit, specifically including tenants in rooming houses. Consideration should be given to tenants in more scattered units with a common landlord.

We next set out some criteria as to what a certified tenant bargaining unit would be composed of. We propose 30 per cent as a minimum number of tenants for preliminary certification and 50 per cent within one year. We also propose a system of checkoff of tenant union dues collected through the payment of rent in order to provide funds for tenant groups' flyers, meeting space, professional help, court costs, et cetera.

We would also like to see the right of organizers, legal workers, lawyers and others providing service to have access to the building as well as tenants to have the right of access to any common areas in the building without charge.

Tenants' rights of access to the landlord's books and records pertaining to the building, including rent rolls and relevant bills and

receipts, should be guaranteed as part of the process conducted by a certified tenant union. This right is essential if disputes and problems are to have any chance of resolution short of a court or tribunal hearing.

All collective agreements should be filed with a body such as the residential tenancies commission, where they should be open to public inspection. Alleged violations of collective agreements should be brought before the residential tenancies commission on the application of either party.

**Ms. Wilke:** The last part is the housing policy.

It seems obvious, to all who want to see, that there is a housing crisis. The abnormally low vacancy rate is pushing up rents at a rate unacceptable to most tenants and creating severe hardships for many. Rent must be controlled, and strictly controlled, until the housing shortage is alleviated. High interest rates and spiralling land costs are two of the most important factors influencing the rising costs of housing. The government must take strong measures to bring these down.

Subsidies do not solve the problem of affordability but increase the competition for the few subsidized apartments that exist. Since a subsidy goes directly to the landlord, the tenant does not have much choice in where he lives. If the institution or agency providing the subsidy does not bargain for a two- or three-year lease, then the tenant does not have much security of tenure since the landlord can opt out of the program at his convenience.

Subsidies are seen as a way of scattering tenants throughout the community to avoid their concentration in large public housing developments and so reduce the social stigma. However, in most apartment buildings, word gets around and the subsidized tenant is often discriminated against and ostracized by other tenants. The amount of money available for subsidies cannot meet the need; therefore, subsidies should not be viewed as a substitute for rent control, but instead they make rent control more necessary.

The disproportionate amount of municipal taxes paid by tenants is another important factor that has to be remedied. There is no other way than through rent control that tenants are assured of receiving this money through lower rents.

Land has seen an enormous increase in price over the last decade because of the speculation and market manipulation by the development industry. Vacant land in most municipalities is in the hands of a handful of developers (as was well documented in the



SPUR report) who are in a position to control supply. Land is too scarce a commodity to remain in private hands. It should be expropriated at cost, not at its present artificially inflated market value.

Developers claim the private sector is the only one that can supply housing efficiently and at the lowest cost, yet their arguments have less and less credibility with people as time goes on and the housing situation gets worse.

Their comparisons of private buildings with Ontario Housing Corporation units is deliberately misleading and cynical.

Firstly, OHC units are, in the majority, family units and much larger than average. Since they are large family apartments, with a greater number of people in each unit, of course the maintenance costs per unit will be higher.

Secondly, and perhaps more important, they don't talk about who developed the land, built the buildings, maintained them and even, at times, managed them—the same private sector.

Their argument that a magical Mr. Fix-It called the free market, if left alone, will straighten things out, is a farce. Developers who bled the rental market when profits were enormous are now threatening not to build if they don't get their own way.

If the private sector isn't able to, or doesn't want to, supply decent affordable housing, the public sector should. A crown corporation should be set up to acquire and develop land and to build, maintain and manage residential rented property. Financial institutions could be required to invest a certain percentage of their assets in this corporation at low interest rates. Financial institutions are co-responsible and the greatest beneficiaries of the inflated price of housing; so it is just that they should also bear the burden of deflation. Neglected or abandoned buildings should be acquired by the crown corporation at minimal cost.

Housing is a basic, indispensable human need. Ontario is a rich province. It is inconceivable, that being the case, that decent, affordable housing is not available to all. The private sector, motivated by profit alone, has failed to provide this. Housing should therefore be considered a utility. In the hands of the public sector, run on a non-profit basis, a more adequate supply would be made available at prices people can afford. At the same time, this could have tremendous employment possibilities. Right now, more than 20 per cent of construction workers are unemployed and have to be maintained by the taxpayers until the "free market" decides

to put them to work. These tax dollars could be put to much better use creating houses, not frustration.

Developers and landlords represent only a tiny minority of the population. Tenants, the majority just average working people, represent a very large part of this population and are becoming more conscious and outspoken about their rights. Can the committee do less than recommend the extension and strengthening of rent review?

The conclusion to all this is obvious to us. The provision of housing is not a business like other businesses. The government needs no excuses to intervene and regulate the property industry to ensure decent housing for its citizens. It is the job of this committee to propose legislation to attain this end in the rental housing sector. It will not be accomplished by subjecting tenants to arbitrary rent increases and evictions. Tenants know this and are watching your committee carefully.

**Mr. Warner:** I'll try to be brief, Mr. Chairman. Many of the remarks in here, particularly in the second section, deal primarily with the Landlord and Tenant Act. I just want to get it clear: Is this the responsibility of people from the Attorney General's ministry? Is that what we're doing? Okay.

I wonder if the Attorney General's ministry could address itself, by way of proposals to the committee, with respect to the items which have been raised in here. To sum them up briefly, I would take them to be two things: the rights of tenants and the conditions under which rents should be withheld.

On page 16 several proposals are made indicating under what conditions the authors of this paper feel that rents should be withheld. That may not be, obviously, an exclusive list. I'm wondering if we could have some proposals put forward as to how we could strengthen the Landlord and Tenant Act so that there are specific instances under which rents could be withheld.

I think the committee had some discussion earlier regarding the serious maintenance problems, and one way of handling that would be that no rents are required except for the payment of the necessary maintenance, obviously, to whoever is going to do the repairs. The landlord who neglected the building obviously shouldn't be entitled to the rent. So we might want that.

Included in that—and it's alluded to later on, on pages 17 and 18—we talk about access to common areas. What kind of strength-

ening of provision can we have? I'll just give one example.

When we get to election time, in my area anyway, the returning officer has a problem because the owners of the buildings don't wish to co-operate and so we don't get a polling location in a building. The building might have 400 voters, but they can't use the common room to go and cast a ballot. Surely we can put in some strengthening provision whereby if the majority of tenants wish to use the building as a polling location, that's what will happen. Obviously, I would think that we need a recommendation as to how we can build that in, addressing the broader question of the common areas of the building and the adjacent property.

My questions really were to the consultants. I simply conclude by saying it's an excellent document. It's extremely thorough. I think probably the most thorough that we've had, and one of the most thorough we've had in terms of landlord and tenant as well as the other related problems. I anticipate this committee will be dealing with the housing problem and the government neglect in the housing field. We'll try to do that, I would assume, somewhere along the line.

**Mrs. Campbell:** I don't think so. You didn't want to get into the question of affordability. We could go from that.

**Mr. Warner:** Right, that's what I'm saying. The committee report will address the question in some way or other, but certainly not leave it hanging and certainly not let the government off the hook in terms of affordability nor the production of housing.

I think at the outset of the committee we outlined this and as we've gone through the committee work we've outlined this, remaining entirely consistent that rent review, landlord and tenant and housing—and the housing problem doesn't go away on June 15 or whatever the date is. This committee or some other committee is going to have a lot of work to do beyond that date and beyond June 23. Those are all the questions I have.

**Mr. Duksza:** Mr. Chairman, our position has always been that the basic tenants' rights and the rent review legislation, rent control, is a basic human right, the right to housing. The home market and the question of housing is a separate issue which has to be dealt with somewhere else. We have not changed our position on that. We are quite willing, in the second half of the year, to continue discussing the housing industry, housing generally, once we establish and people accept

on this committee that rent control is a right of all tenants.

What I was going to ask you is to just give me some information about the number of cases you had to deal with. I would like to know the number on which you base some of your rather brilliant and exact conclusions.

**Mr. Hale:** We get at least 15 or 20 telephone calls every day.

**Mr. Duksza:** That seems fair enough, actually.

**Mr. Hale:** They have questions or are having difficulties with their landlords. Apart from that, we take a fair number of cases to court and rent review. I think we did approximately 40 or 50 court cases last year, and probably an equal or higher number of rent review hearings, as well as participating in tenant meetings and giving educational talks to tenants on their rights.

**Mr. Duksza:** Clearly, your conclusions are based on a quite thorough study of the people who run into problems both with their rent and with the Landlord and Tenant Act.

**Mr. Hale:** Right, it's a wide sample of people who are having problems, that's for sure.

[2:45]

**Mr. Duksza:** I do agree strongly with your point that financial passthrough, which has been one of the features of almost all tenants who have spoken, is an unconscionable extraction of money from the tenants to build the equity capital of the landlords.

One thing that you have proposed, which I find very interesting, is collective bargaining rights, which is the application of a concept from another field. I rather like the idea because it would organize the power of the tenant to counteract the existing financial power of the landlord.

**Mr. Hale:** It helps get away from a system where the government is sort of helping the tenants out in various ways, by giving them rent review legislation and things like that, to a system where they would take it into their own hands to take part in these decisions.

The committee has seen that there are a lot of tenant groups that are already organized, to a certain extent, to accomplish what they can now. We feel that out of this could eventually come a system of collective bargaining.

The roots are already put down in the existing tenant associations and in the Federation of Metro Tenants. By extending a little bit in the future this could be the way



that a lot of these problems could be resolved, outside of legal proceedings.

**Mr. Duksza:** It is already happening on a voluntary basis. I know a number of apartments that are organized. It needs to be recognized in law otherwise it all becomes voluntarist without recognition. It should be recognized in court and that is one of the things I am interested in.

Of course the last paragraph reflects the dialectic in society as much as we reflect the dialectic here in this committee. So one should not minimize the difficulties of getting some of those points across in this particular committee which represents, after all, all the forces existing in Ontario. Don't hold your breath thinking we will rush—some of us are, but not everyone in this committee is into implementing or seriously considering some of your more forward-looking solutions.

**Mr. Hale:** We thought we would plant the idea and see what happens.

**Mr. Makarchuk:** The ground is too fertile.

**Mr. Duksza:** That is a brilliant statement.

**Mr. Chairman:** Thank you very much for your time. I am sorry we didn't have more time.

**Mr. Hale:** Thank you. I am sorry that we took so much time.

**Mrs. Campbell:** May I ask one question please?

I would like to congratulate you on the brief. I am sorry that I missed some of the opening. There are many things in it I would like to question but we don't have the time.

On the question of the disruptive tenant: I take it you are not averse to other tenants who are complaining to the landlord being available as witnesses to assist the landlord in his case? Is that what you are saying?

**Mr. Hale:** No. We are saying we shouldn't put the responsibility for removing these people on the tenants because they are not the ones who are responsible for the management of the building.

**Mrs. Campbell:** I just wanted to make it clear because quite often—and I think your phone calls must be about the same as mine—I get that kind of call on a daily basis.

**Mr. Hall:** That is part of the lack of responsiveness; the tenant complains to management that someone is really annoying him and management says, "huh"—it doesn't respond.

**Mrs. Campbell:** One of the problems is: Tenants will call me and say, "My landlord won't do anything. I complained." When I asked, "Are you prepared to assist in giving

evidence?" The answer was, "Oh, no, I don't want even my name mentioned." It just seems a little one-sided. If they are not prepared at least to help to that extent, do you have an answer for that kind of problem?

**Mr. Hale:** I would think the problem mustn't be that serious if they are not willing to publicly state they are suffering from these problems.

**Mrs. Campbell:** That is in the eye of the beholder. The ones who call me obviously think it is of paramount importance. But if the landlords should be the ones to adduce the evidence, I don't know how it can be done. I really have tried to reason with these tenants, but it doesn't come down to anything that is helpful. You have to point out that you can't just remove a tenant without any evidence. Perhaps you would address some of your tenants on that to see whether they would, as you believe, be prepared to come forward.

**Mr. Hale:** I think we have had cases where tenants have come forward and testified in court against other tenants that were really bothering them. That's the only way that can be dealt with. It can't be arbitrarily done, and if it is bothering them that much, I don't see why they shouldn't be willing to go to court. Perhaps if a commission is instituted, as a less formal procedure, it will be less intimidating, and that might help.

**Mr. Chairman:** Thank you very much.

**Ms. Harriman:** Mr. Chairman, I have two of my colleagues with me. May they also approach the table?

**Mr. Chairman:** Absolutely. Ann, are you going to identify your colleagues, as well? Please.

**Ms. Harriman:** My name is Ann Harriman and I sit on the Board of Appeals for the Ontario Rent Review Program as a tenant representative. Next to me is Arthur Lessel and sitting on his other side is John Bradshaw. The board is made up of both tenant and public representatives, and within this group you have both public and tenant representatives present here.

**Mr. Chairman:** Thank you.

**Mrs. Campbell:** You are the people who are biased as far as everybody is concerned it seems, both landlords and tenants.

**Ms. Harriman:** That's right. I understand the purpose of this was to perhaps answer some of the questions the committee had concerning the limitations of the board in dealing with certain matters that come before us.



**Mr. Chairman:** Did you have an opening statement, Ann?

**Ms. Harriman:** Well, I hadn't, but I can come up with one. I think it's been a great concern to the board members because many times it's very frustrating whereby tenants bring before us problems that we can't handle. One of them, of course and it's the most major one, is that concerning maintenance.

Rent review is basically a passthrough system, a cost passthrough system. If the landlord states and comes up with bills showing that maintenance has been done and the tenants say that it hasn't been done, it would be highly questionable for us not to take those costs into consideration once they have been verified. On the other hand, of course the tenants have a very good case too: Why should they pay for maintenance that they are not receiving?

Another major problem, and it was brought up earlier this morning, is the disparity in rents within a building. One of the sad things about the rent review program is in many ways it has helped to perpetuate that disparity. For instance, if you have two tenants in the same building in similar units, and one's rent is \$250 and the other's rent is \$260, each time they come to rent review the difference gets bigger. That is, of course, because we use the percentage system of levelling rents.

I have never quite understood why it could not have been on a dollar basis; using the percentage on the building as a whole, translating that percentage into dollars, and dividing it among the number of units. I imagine that would have probably been the best way to handle that.

**Mr. Duksza:** I am interested in the financial passthrough. I realize of course that you have to obey the letter of the law but I am interested in your opinion about financial passthrough, its effect on rents, whether it should stay, and what changes would you introduce.

**Ms. Harriman:** This, of course, would be my personal opinion.

**Mr. Duksza:** Yes, I agree, but you are a very experienced person—

**Ms. Harriman:** I hope so.

**Mr. Duksza:** —and it carries some weight.

**Ms. Harriman:** I think there are certain items that perhaps could be considered as not being passthrough. Probably the most blatant of these would be in regard to a financial loss. It is questionable whether even that should be considered as a passthrough

but that is the principle. To me, it seems absolutely ridiculous that that principle should be considered as a cost to be passed down to tenants. I think that is probably the most blatant one.

As has already been brought up, I question maintenance items and capital expenditure-type things that have come about because of lack of maintenance in the building and where the landlord is now doing them because he is being ordered by the municipal government to do so. One would assume that when the rent structure was struck, certain maintenance items were taken into consideration and built into the rent structure to start off with. Basically, when a landlord allows certain items to slip and then has to do them all at once because of orders against him, it's really like double accounting to the tenants to have to pay again. I think they should be paying the difference between perhaps what the original cost of the maintenance problem was and what it is now.

**Mr. Duksza:** You're clearly differentiating that any maintenance costs that are due to disrepair, et cetera, should not ever be allowed to pass through.

**Ms. Harriman:** No, not due to disrepair, but where the building has come to such a state that inspectors from the different municipalities come in and give work orders on it. I think it's very questionable whether or not they should be passed on to the tenant or in full or in part. I think it's something that should be gone into.

**Mr. Duksza:** But obviously in terms of passing through principle and interest on mortgage refinancing, you have a serious question whether that should be allowed?

**Ms. Harriman:** That is a big question. I think perhaps Mr. Lessel or Mr. Bradshaw could probably answer that one.

**Mr. Bradshaw:** I have no fixed view but the money's going to come from somewhere. In the final analysis, the money's got to surface from somewhere. If the landlord doesn't bear it, the tenants will.

**Mr. Duksza:** It's a question of whether the tenant should build the equity or the capital for someone who is the only one who will ultimately benefit from it. That's really the question I'm driving at. If you speculate, if you want to make money, you should not make sure that everyone who is living in your apartment works hard to make your capital.

**Mr. Bradshaw:** I believe a safeguard of this sort could be built into the system.

**Mr. Duksza:** Do you have any other suggestions?

**Mr. Lessel:** We normally safeguard that situation by looking at the amortization period of a given mortgage. If that in itself is a reasonable length of time and not an accelerated mortgage, then it is a conclusion generally of the board that that is a fair investment of the landlord and that it is part of a normal return he could expect from his equity in the building.

In situations that come before us where perhaps there's an accelerated payment period, then we revise our own financing formula to assume that the mortgage was paid at a reasonable length of time. The landlord doesn't then benefit from this in a situation of financial loss.

**Mr. Duksza:** As a member of the board, Ms. Harriman, have you found that you've had difficulty in getting full financial facts from the landlords and have the tenants been given enough opportunity to look at these?

**Ms. Harriman:** It's very difficult to be able to prove 100 per cent that any given financial deal is as stated. With the way in which the board is structured and the way in which we are set up, we do not have the resources to be able to do the type of behind-the-scenes work that would be needed to really determine whether or not any financial arrangement could be considered correct and above board and something that is true, as the landlord is claiming. We just don't have the resources to be able to do it.

[3:00]

**Mr. Duksza:** What are you asking—because after all that's one of the questions we are asked to consider—to make your job better?

**Ms. Harriman:** I think maybe not particularly our job, but certainly any tribunal or commission or maybe a board in the future. I think there should be some staff for investigation in regard to certain areas. Financing is one. Maybe also in regard to looking at the buildings too, and seeing what type of state the buildings are in. The investigators would not just have to be there for the purposes of assessing information concerning financing. I think that the information should be made available to the tenants too.

**Mr. Duksza:** That's the next point I was going to ask you and you have answered it already, so thank you.

**Mr. Warner:** Just to follow up on what you described and the difficulty you had, has the fact that the whole business starts over again at the appeal board been a factor in that, the

de novo business? Has that made it more awkward for you?

**Ms. Harriman:** I think in some cases it does make it a little awkward, because often neither the landlord nor the tenant really understands that the hearing is a hearing de novo and does not come prepared. One is assuming that the board members have all the information that was put before the rent review officer, and of course this is not always true. Although the board does send out a sheet stating what is expected of the landlord and of the tenant—you know, it's like a form letter; it's a little like a flyer—who takes notice of that type of thing? I would imagine that in many cases it comes in the envelope and it's just kind of taken out and the notices themselves are read and not the information pertaining to them, and sometimes that is a problem.

**Mr. Warner:** I tried to wrestle through the idea of appeal. If, for example, the committee agrees, as I think it might, about having some sort of rental tenancies commission or tribunal, whatever the terminology is, to deal with all matters, not just rent review but all other related matters, then you have to think about an appeal system, and first of all, where should you appeal, where should the appeal go and then, secondly, do you start over again or what's the basis. I wondered if you had any comments on both those items. Where should the appeal go? Should it go to some sort of a court which we have already got established or something else, and should it start fresh?

**Ms. Harriman:** You are assuming that if we have some kind of tribunal and the parties first go to the tribunal and one of them is dissatisfied with the order, should it go straight to court or should it go through an appeal basis? Is that basically it?

**Mr. Warner:** Yes.

**Ms. Harriman:** I think an appeal basis, if you are going to have a tribunal of this nature, then I think that there should be some means of appealing for both parties and the courts being the last recourse. I think also, too, for instance, now in this particular system we have a hearing de novo. As it so happens that means basically we hear the full case all over again. If you were to kind of narrow down what could be appealed you would perhaps maybe have the parties, instead of appealing the whole case, picking out certain things that they disagree with.

For instance, it may just be maintenance, so there would be no need to go into any of the other items. That's the item that you



would be dealing with but if you were to have that, then it would mean that the first level would have to take special caution in making sure that how they arrived at this decision is written out very well and all the details, so that the person would be able to understand exactly how the decision was arrived at and what areas they disagree with.

**Mr. Warner:** That's very helpful, because I don't know about other members but that's been a concern of mine and I am trying to wrestle through it. The last question I have is, do you have any suggestion about how whoever it is who is sitting on this tenancy commission, or whatever the terminology is, should go about verifying the maintenance aspects, whether the work's been done, and whether or not the bills for the work are legitimate and so on? Do you have any suggestion how all of that should be verified?

**Ms. Harriman:** Invoices, audited statements and on-site inspections could be one means, and perhaps the commission or the tribunal or rentals officer, whatever, could perhaps have the authority and have the means to impose an open auditing of books of the landlords, things of this nature.

In most cases, if there is no relationship between the maintenance contractor and the landlord, then basically you've got two parties that have something to lose if the work is not done. I'm not saying that it follows through all the time—it doesn't—but one would assume that this is what it is. Where you have a maintenance company that is related to the developer this is where you have the problem, because it is basically to the developer's or the landlord's advantage for his management company not to do a good job.

I know it sounds a little silly, but basically that's the way it would work out in regard to money and so forth. If you're paying a contractor to do nine or 10 jobs that take up perhaps, just for argument's sake, \$1,000 of supplies, you're hiring him to do that, and if the contractor is related in any way then it might be quite to the developer's liking to have the contractors only do \$700 work in regard to supplies.

There has to be some means of determining exactly what should be in the contract and how do you enforce a contractor that is related to the landlord to do the business? How can the landlord do it? It's like taking you own brother to court.

**Mr. Warner:** I guess perhaps the auditing, as you mention, and the on-site inspection would be helpful. I can think of a couple of cases in our own area where the on-site inspection turned up phoney receipts which the

landlord had turned in. The rent review officer was able to discard those, but it was only by way of the on-site inspection by the review officer. I take it that was an unusual circumstance. The man was obviously overworked at the time, but he still did that.

That's something we need to address, because the maintenance has proved to be a prime problem. When you deal with it, you've got to have some way of verifying that the work's been done and the bills are legitimate. The auditing, the post-auditing, or whatever the terminology is, seems to be a good approach as well as the inspection.

**Ms. Harriman:** Apart from the fact of even verifying, in many cases you have landlords who can verify that they have spent these moneys and these moneys have definitely been spent. It's just that the work itself has not been done or it has not been done satisfactorily. That is a problem. I don't know how you would address that.

**Mrs. Campbell:** There are really two points or two avenues I'd like to approach with you. On the maintenance, it seems to me that one of the major problems is that the statements that are produced by landlords—generally the statements—are very general in nature. They lack specifics in a lot of cases. Perhaps by reducing it to specifics we can then get closer to proof.

I'm thinking, for instance, of a case where the landlord put in landscaping as a cost. All you had to know about the building was that if mud was landscaping, they had plenty of mud. It was the landscaping. On questioning, it turned out it had something to do with the basement, although the basement was covered in another area. It seems to me that if the statement could require greater specifics, then it is much more readily capable of proof one way or the other. It could only be helpful to everybody to know what the specifics were. Would you agree with that?

**Ms. Harriman:** I would agree if it were possible to nail down invoices and bills of that nature. I think you may run into a problem because what happens when the landlord has an outside contractor and the contractor writes out the bill is that he may not put down in detail what the work is.

**Mrs. Campbell:** Perhaps that is something that must be looked at. There must be some agreement between the landlord and the contractor as to the work to be done. I am sure that agreement would not reflect a kind of global approach. I think it would be rather specific. Whatever the contractor does, as we go and learn the specifics that are required, then it seems to me if we could move in that



direction it would be helpful to everybody.

**Ms. Harriman:** I think it would be awfully difficult to do, but I agree with you that it would be a help.

**Mrs. Campbell:** I don't know that it would, frankly. I think most people, even those who have their own companies doing maintenance work, can put down \$10,000 for materials. It seems to me if you can get to the point of an auditor's statement that says \$10,000 worth of materials, there must be something to indicate to an auditor how they arrived at that figure, if he certifies it.

**Mr. Lessel:** Mrs. Campbell, I think you will find with the large development companies today that they already have this system, not that it was put together for rent review, but just so that their own auditors know in which direction the money was spent. At various board meetings, if pressed, they can pull out of their file folder, all under maintenance of building, from the various categories all the bills for all the work that was done.

**Mrs. Campbell:** I am sure they can, but that is not material that is available to tenants. What the tenants are getting is "landscaping X dollars." All they can do is ask where. Then the position shifts to something else that really it wasn't landscaping. Or in another case, these were for drapes in the building. When the tenants say they never had any drapes there, they reply that that really wasn't accurate. It is the specifics that are the only things that tenants can really usefully relate to as they go. It is not good enough to me that they have that available but it isn't seen in advance.

The other thing I really would like to ask you about is I have great difficulties with some suggestions about refinancing because for small landlords they are very true problems. A mortgage comes due and the interest rates are higher. I think it is perfectly legitimate that those increases in interest rates should be a part of cost and that it ought to be passed through.

What do you do? How do you handle these cases where, in the first place, you have a lot of corporate bodies? You have a title perhaps. Maybe you ought to have the titles in front of you. A transfers to B. The names are different but the directorates are the same. The prices go up and the mortgages taken back reflect the inflated price. B may then turn around and deed back to A or deed to C with still the same directorates.

How do you attack that kind of a situation to say at what point this is really almost a paper mortgage?

**Ms. Harriman:** We approach it very cautiously.

**Mr. Lessel:** Generally the situation is such that it is not the same directorate. It is some of the directorate. It is an area that is beyond our ability to control.

[3:15]

**Mrs. Campbell:** But they may have principals; they may not be entirely the same, but you will have someone who is involved in all three companies on the board of directors and maybe a guarantor as well.

**Ms. Harriman:** Board members handle these things. Because of the discretion of the board, they are handled—each member has his own way of viewing these things. For instance one of the means by which it could be handled—let's be honest: If a company of that nature has pulled into its circle a number of people who are just looking for investment but who are not related to anyone, in many ways it would be unfair to penalize them for what others have set up.

One of the ways could be—it is very difficult, because you would need to have a list of the shareholders. Usually with a list of the shareholders, there are not only individuals; there are other companies that are shareholders. Which means that to really prove your point, or to be really able to ascertain who has an interest in what, you would have to go into who were the shareholders. It could just go on and you would never really come up with individual names. This is the problem. It's very difficult to do.

As I said, each panel has its own way. Some panels may take the position that the onus is on the landlord to prove that this is at arm's length and, if he has not done so, may disallow it completely on those grounds. Another panel may view it and think in terms of "We know that one or two people are involved with all of them" and may allow part to try to protect and so on. These are where the problems are. These are the limitations. It's too difficult to get the information.

**Mrs. Campbell:** How would you suggest that we could move to protect the one transaction on the one hand—that is, the small home owner who simply refinances and the money goes back into that building—and this kind of intercorporate complexity of financing? Have you any suggestions as to how that could be done?

**Ms. Harriman:** I think the commission or tribunal that has to sit in judgement on matters of that nature—and I think it's very important that you don't hurt the wrong people—should have the power to subpoena

all documents related to all companies involved; and not only should it have the right to subpoena but it should also have the backing of the government in doing so. I think that is important. We have the right now.

**Mrs. Campbell:** You don't, of course, have that backing at this point.

**Ms. Harriman:** It's very questionable.

**Mr. Makarchuk:** Would you settle for the right, if they don't supply the document, to refuse to give them any increase? They could always have an effect.

**Mr. Lessel:** In a way, we have that right for all documents. In other words, the onus is on the landlord to prove his case.

**Mr. Makarchuk:** Right. You've been dealing with quite a few settlements recently and you must have some idea of the costs. Could you give an appropriate figure for a rent guideline—we have a six per cent figure right now—that you think is a fair figure, based on your experience? Let's exclude the repairs, the various refining charges, et cetera. Would you have a guideline figure in mind right now? This would be looking at existing taxes and the cost of hydro, heating, et cetera.

**Mr. Lessel:** I think that varies building to building.

**Mr. Makarchuk:** What would you consider a fair average?

**Mr. Breithaupt:** Just rental increase?

**Mr. Makarchuk:** Yes, a guideline increase.

**Mr. Lessel:** I wouldn't care to comment on that. I've seen too many variations to say that a figure is the right figure.

**Mr. Makarchuk:** What is the range of your variations?

**Mr. Lessel:** I've had them a little over four per cent and I've had them at 22 per cent, depending on the circumstances.

**Mr. Makarchuk:** In other words, you can't indicate where the greater percentage of them would fall.

**Ms. Harriman:** I think you have to remember that the board covers the whole of Ontario. It is variable because we are faced with hearings throughout the province; so it is very difficult. What could be considered as fair for Metro may not be fair for, say, for Sudbury, North Bay or Sault Ste. Marie.

**Mr. Lessel:** The greatest variable that occurs is when one day you are analysing a fairly large apartment building, where you have 150 units sharing costs, and the next day you have a sixplex; the dollars aren't great in the sixplex but the percentage figures get out of all proportion. When you talk of

a six per cent increase, that might be excessive for a large apartment building, but it may not come close for a sixplex where they have painted all the common areas and the outside at the same time; that, spread over six units, dollar-wise, raises the percentage rate—

**Mr. Makarchuk:** Suppose you excluded the external repairs, the roof repairs, et cetera. I would like to get some kind of an indication from you in terms of straight passthrough cost of the hydro, taxes, utilities—

**Mr. Lessel:** But these are set by other levels of government.

**Mr. Makarchuk:** That's right. But I wonder, when you take these costs into account in their applications for rent increases, if you could give some indication of the figure percentage increase that would cover these additional costs.

**Mr. Lessel:** That is not really a fair question. Last year, in North York, the increase in the realty tax was about 17 per cent. This year, it will be about 2.5 per cent when they finally strike it. So the board or even a rent review officer is at the mercy of other levels of government.

**Mr. Makarchuk:** I realize that.

**Mr. Lessel:** This is what I am getting at—

**Mr. Makarchuk:** In other words, your figure varies from four per cent and up. Is it fair to say then that on larger units the figures can be lower and on smaller units the figure is higher? In what areas of the province do you find that the figures should be higher in comparison to, say, Metro? Where would you find that the increases are highest? Where would you consider the increases to be lowest in the province? And let us have some in between if you can.

**Mr. Lessel:** Again, I don't think it reflects on the specific area. I think it reflects on a particular type of accommodation.

**Mr. Makarchuk:** It is not related to area?

**Mr. Lessel:** I wouldn't think so.

**Ms. Harriman:** Not to any great degree.

**Mr. Makarchuk:** And, basically, what you are finding is that the costs of the larger buildings with more units are a lot less than—

**Mr. Lessel:** That's right, because they can spread it over a greater number of people.

**Mr. Chairman:** Thank you very much for coming and spending some time with us.

**Mrs. Constance Kindya:** She doesn't appear to be here. We have her brief.

**Mr. deKlerk:**

**Mr. deKlerk:** Mr. Chairman, before I proceed, there are submissions from two other



tenants' groups that were going to be here today but are not going to come. That might be good news in one respect. They have left me with copies of their briefs; one is from 135 Fenelon Tenants' Association in North York. The other is from the tenants in a number of buildings on Bathurst Street.

**Mr. Chairman:** Jack, you have been here before but, for the record, would you just identify yourself and who you are representing?

**Mr. deKlerk:** My name is Jack deKlerk and I'm the chairman of the Federation of Metro Tenants' Associations.

The federation earlier, as you are all aware, made a substantial brief dealing with not only rent review but also with some aspects of the Landlord and Tenant Act. We outlined our recommendations and they could be summarized very briefly as recommending the establishment of a residential tenancies commission which would deal with landlord-tenant problems as well as rent review.

We wanted to deal today, in terms of Landlord and Tenant Act amendments, with the principle that we believe was incorporated into the Landlord and Tenant Act in December 1975. I should just apologize for the moment. My submission today is not written, so if you're looking for one among all your pile of material you won't find anything.

The amendments to the Landlord and Tenant Act in December 1975 were generally known as the security of tenure amendments to part four and basically required that a landlord give the tenant reasons for termination of the tenancy. I think it's significant, and I think it was recognized by the Legislature, or various people within the Legislature at least at the time, that the Landlord and Tenant Act was amended at the same time as the rent review act was brought into effect.

I think that people were saying then, and I think they're still saying now, that there is no security of tenure without some ability to review the rents that are being charged. In the absence of rent review, the landlord can charge any rent he wants and such a right on the part of the landlord goes to the heart of security of tenure. Without some kind of rent review, there is no security of tenure.

I think it's generally accepted by all parties—perhaps at least the members of this committee—that some kind of tenant protection is needed to prevent rent increases from being used as a means of evicting tenants. In effect, this is an admission that some kind

of permanent protection is necessary for everyone. We'd like to stress that, because if, in fact, security of tenure is tied to some kind of regulation of rents, then everyone has security of tenure under the Landlord and Tenant Act, then everyone should also have security of tenure from unjustified rent increases.

We would urge you to really consider what the effect would be of eliminating the rent review program or making it less effective. And what effect that would have on tenants, not only in Toronto but also throughout Ontario; and not only to tenants in housing that exists and has existed for some time, but also to tenants who live in new housing.

A tenant living in an apartment building that was started last year has security under the Landlord and Tenant Act, but there's nothing that prevents that landlord from giving a tenant in one of those buildings a 40 per cent increase in rent; absolutely nothing. If the landlord wants to get that tenant out, he can simply do it by increasing the rent. We feel that basically undermines the security of tenure amendments to the Landlord and Tenant Act and that it doesn't make sense to have part IV of the Landlord and Tenant Act maintained and not maintain some kind of permanent protection for tenants from unjustified rent increases.

In fact, tenants have come to recognize that rent review has given them a right to know that the rent increases they get should be justified or that they are justified, and that their rent is contributing to the payment of the expenses in their buildings.

[3:30]

On the basis of a verification of these facts, tenants willingly pay their rents. We feel that is also a basic right that tenants have come to experience and have come to expect. They shouldn't have to pay a rent which can't be justified by the landlord. In other words, it is simply set by whatever he chooses to charge or, secondly, that he needs to pay for expenses in other buildings. I don't think tenants should have to pay for those kinds of rents nor are they prepared willingly to accept that sort of thing.

Failure to incorporate these requirements in a rent review program will mean that these rights have been bargained away. It should be clear to the members of this committee at least and hopefully to everyone in the Legislature, that tenants are not prepared to accept such a compromise. Prior to this committee's coming into existence, many tenants had been completely uninitiated in terms of



the political process. They have come here, let's say, as babes in the woods with absolutely no political experience and they have gone through a process of articulating what their views are and of trying to understand what the legislation is about, what the problems are and how they can be dealt with.

They have come to express their concerns. Their willingness to prepare briefs and to present them to this committee reflects their determination to let the members of this committee know they think rent review is an important political issue and, secondly, that they are concerned about their security in the context of a weakened or non-existent rent review program. I think the fact that 40 tenant groups have come here is significant. I am not sure that any other committee of the Legislature has heard from so many groups of people who, prior to the committee's coming into existence, had absolutely no political experience.

A compromise on the security that tenants have, especially in conjunction with rent review, is unacceptable because it would not in effect be a compromise. Nothing is gained in return by tenants if rent review is eliminated or weakened. There can be no guarantees given to tenants of more housing. There can only be commitments given on the part of the developers.

Even if there were a higher vacancy rate, it is the general feeling of tenants that moving in the face of problems is not a solution. There are always the costs of moving. What does a tenant do with an investment in wall-to-wall broadloom? You can't take it with you. The reality is that the next place may well be as bad or as good or whatever or beset with the same problems that the tenant has now. Finally, there is the emotional and social stress of leaving a community and having to start over again.

All of this is not to suggest that tenants aren't concerned about housing production. I think they certainly are. What they are saying is that the need to have housing produced should not be discussed in the context of shall we have rent review or not. I think tenants are saying we have to have rent review. We have to have some procedure whereby rents can be justified. Then we can talk about what kind of housing and how it will be built.

We are suggesting then that rent review and that kind of protection that tenants have be one of the givens in a discussion of alternative housing policies. The Legislature will have to develop a housing policy and that policy will have to recognize tenants' rights.

There has also been some concern expressed regarding the housing market being singled out for controls. In this context, it is important to realize that housing as it relates to the people who live there is definitely unique and would warrant special regulations even for that reason. People can't ignore their need for affordable housing nor can they ignore the fact that generally a large proportion, usually over a quarter or around a quarter, of their income goes to rent. Finally, because of the shortage of housing a virtual monopoly exists in the housing sector and, therefore, that sector should be regulated.

Apart from the uniqueness of housing, I think controls are justified. There are many other sectors of society which face much tougher controls: marketing boards regulate food prices, the CRTC regulates the communication industries, many governmental agencies regulate things like pollution standards, and all of those are one kind of control or another on a various industry.

In fact, the housing sector is probably one of the least regulated or controlled industries in our society and it deals with one of the most important things in our lives and it is incredible that for so long landlords had their way. We also want to express concern over one suggestion made to this committee, namely that tenants be given the option of objecting to unconscionable rent increases. First of all, we would define unconscionable as an unjustified rent increase. Anything that the landlord cannot justify is, in our opinion, unconscionable.

Secondly, both landlords and tenants have complained to this committee about disparities in rent within a building for the same kind of unit. If a tenant is given the right to dispute a rent increase, or the onus is going to be put on the tenant, then those kinds of disparities are going to become even more exaggerated. We are going to find situations where a 30 per cent increase in rent may be unconscionable or unacceptable to one tenant but acceptable to another simply because the tenant has decided that for one reason or another they are not going to dispute it. Then the rents that are being charged in a particular building obviously are going to become even more disparate than they are now.

That concern is in addition, of course, to the concern that if we are going to move to a tenant-initiated scheme then tenants are setting themselves up for even more harassment than they presently have to put up with, and I think that that in itself is sufficient justification to get away from that kind of a program.

In conclusion, I would just like to express on behalf of the federation our support for many of the tenant groups that have come down here and the briefs they have presented. We think it is not surprising that tenants have generally expressed a unanimous opinion that rent review must be maintained, that the Landlord and Tenant Act must be improved and that the rent review act must be improved.

Tenants are genuinely concerned about the future of their rents and their living situation in this province. I might just say that I think it is not only the tenants of Toronto, I think that generally tenants throughout Ontario, when we are talking about security of tenure and rent review as being complementary to the Landlord and Tenant Act, we are talking about all of Ontario. We are not just talking about Metropolitan Toronto, because it is as easy for a landlord outside of Toronto—and we can go to Thunder Bay, Kitchener, Hamilton or Kingston—if the landlord doesn't like the tenant and if he wants to get him out, if there isn't rent review he simply has to increase the rent. That is going to really undermine the Landlord and Tenant Act and it is going to prevent anyone from really enforcing his rights. We think that would be a really unfortunate situation.

Finally, there's just one comment we would like to make as far as the committee's recommendations to the Legislature are concerned. We would hope this committee would include in its recommendations a recommendation that hearings be held in the fall to discuss whatever legislation comes before the Legislature, that the recommendations go to probably a select committee of the Legislature so that hearings can be held to discuss the precise legislation.

We think people have put a lot of effort into presenting briefs to this committee and we think that you as a committee—obviously it is not entirely in your hands—have an obligation to those people to say: "Okay, we've listened to you now and we want to make sure that you also have a right to comment on the legislation once it comes to the Legislature."

We look forward to seeing your report. In some ways we don't envy you, although it's your job to have to write the report. We want to express our appreciation for the many ways in which this committee has accommodated tenants' concerns by having a number of hearings, by having those hearings in the evening and for the scheduling that's gone on. We thank you.

**Mr. Makarchuk:** I just have one question. You mentioned about coming back in the fall. Do you realize the constraints that exist right now in terms that the legislation, as far as tenants go, will expire at the end of September? The House intends to rise about June 23. It seems to me and some members of the committee that there might be some interim measure that will have to be put into effect before we come in with full-fledged legislation. What would you recommend that the committee do or the government do in this situation?

**Mr. deKlerk:** If the government is seriously going to consider some of the proposals, which I trust it's going to, if just one of the proposals were accepted, namely that there be some kind of integration of the various landlord-tenant relations under one jurisdiction—call it a tribunal, a commission or whatever—if that is set up, I would suggest it would take time. It was suggested earlier, I think by Tenant Hot Line, that that sort of thing should not be simply thrown together in a slapdash manner. If that were to happen, it would be very unfortunate for everyone concerned.

That's going to take a few months to put together, once the legislation is passed. Even if the legislation were passed on October 1, which I don't see happening, you would have only three months basically to have the thing set up. I don't think that is enough time. I think the simplest way of doing it is to recommend that the Legislature simply scratch the last clause, or whatever clause it is, in the rent review act that says the thing expires.

**Mr. Chairman:** The expiry date.

**Mr. deKlerk:** In that way, you give yourselves as much time as you need. More than anything else, that's something you have to consider. This sort of thing should not be done with a club over your head, saying you've got to be finished by this date. I don't think it makes any sense simply to say, "We'll extend it for six months." I think that's just fooling everyone. You might as well just take out the clause. Everyone knows then that it's going to be there for as long as the Legislature takes to set up something else.

**Mr. Chairman:** Thank you very kindly for your time. The Toronto Redevelopment Advisory Council, Mr. John Bryan.

**Mr. Bryan:** Mr. Balfour, our chairman, is speaking for us.

**Mr. Chairman:** Gentlemen, would you both be kind enough to identify yourselves into the microphone for the record?



**Mr. Balfour:** I'm St. Clair Balfour, chairman of the Toronto Redevelopment Advisory Council, accompanied by John Bryan, its executive officer.

**Mr. Chairman:** Everyone in the committee has copies of the brief.

**Mr. Balfour:** I think the brief was distributed. We have additional copies if they're required. The council was formed in 1960. Its function is to advise and assist in sound planning for Toronto. It is composed of senior executives in the business field who have demonstrated their concern and interest in the community at large. At this juncture, we should like to offer our views and concerns in the field of rent review.

At the outset, we should tell you that we favour complete decontrol of a very large proportion of rental units. We propose to indicate some of the reasoning that has gone into making this judgement. We have studied the literature available on rent control and decontrol and have been impressed by the reasoning of those favouring decontrol. Over 50 years ago, F. A. Hayek, a Nobel prizewinner in economics, examined the repercussions of rent restrictions in Vienna. His report is still timely today. His recommendation was to create a large uncontrolled market in housing. He also urged that when, in order to keep rents down, public money was to be used, it should be devoted exclusively to building the smallest and cheapest of homes and that these be offered at rents geared to the post-control market.

Milton Friedman of Chicago, a recent Nobel prizewinner in economics, offered his conclusion on rent ceilings currently existing in New York. They cause haphazard and arbitrary allocation of space, inefficient use of space, retardation of new construction and indefinite continuance of rent ceilings or subsidization of new construction and a future depression in nongovernmental buildings. [3:45]

Bertrand de Jouvenal, president of the bureau of economic research in Paris, outlines the system of rent control which has been in effect in Paris since 1914 and concludes that rent control is self-perpetuating and culminates in both the physical ruin of housing and the legal dispossession of the owners. Quote: "The havoc wrought is not the work of the enemy but of our own measures."

The general conclusion reached in surveying the results of rent control in other jurisdictions is that the longer it is allowed to remain in effect, the worse the situation becomes and the more difficult it is to abandon. The story in the *Globe and Mail* on May 17 from London, England, gives a graphic

account of some of the effects of continuing controls in that city.

In the Toronto real estate region, i.e. Metro and the contiguous municipalities, there are some 25,000 vacant housing units for sale. Obviously, some of these are of a luxury quality, size and price. That is, they are far out of reach of modest incomes. But many, with the assisted home ownership and Home Ownership Made Easy programs, are priced within the means of those of very modest means and are admittedly designed to be attractive to those now renting their accommodation.

The recent federal program called the graduated payment mortgage is particularly applicable to those with modest incomes and the program, as you know, is applicable to both old and new housing. This is one partial solution to the question, what happens if rent control is removed and rent prices shoot up.

Another partial answer lies in the vacancy rates in rental accommodation in Toronto. The following reflects vacancy rates obtained from the public and private sectors: Central Mortgage and Housing Corporation, one per cent; city of Toronto, city home projects, four per cent; Greenwin, 0.4 per cent; Cadillac-Fairview, 0.4 per cent; Belmont, 0.7 per cent, and Meridian, one per cent. It is interesting to note that Meridian, with an overall vacancy rate of one per cent has a 3.5 per cent vacancy rate in the west end of Metro.

It can be concluded that while generally speaking there is a "tight" situation in Toronto in so far as vacant rental units are concerned, there are patches where the vacancy rate favours the prospective tenant. As already pointed out, the prospective tenant might find it quite within his means to become a prospective home owner as a suitable alternative.

Although our organization is specifically interested in Toronto and region, we are mindful of the fact that this committee has a province-wide mandate. It is our understanding that Toronto has the most difficult problem and that other areas would have less hardship in adjusting to full decontrol of rents, for example, Sudbury which we are told has a 17 per cent vacancy rate.

On another point, it is interesting to note whom rent review assists. The Canada Year Book of 1976-77 published an expenditure pattern by family income quintiles based on 14 Canadian cities. The percentage of home owners for each quintile is: the lowest quintile, 34.4 per cent; the second lowest, 46.6 per cent; the middle quintile, 58.1 per cent;



the second highest, 69.6 per cent; and the highest quintile, 79.7 per cent.

Accordingly, it can be seen that some 40, 30 and 20 per cent of the top three quintiles are being protected by rent review and more than a third of those in the bottom 20 per cent of income earners live in their own homes and need no rent review protection.

The Toronto Redevelopment Advisory Council takes the view that rent control, except as a very temporary measure, is inimical to the best interests of all sectors of society. We are made more steadfast in this view when it is buttressed by the opinions of such distinguished economists of international stature as those quoted above. We recognize that individuals of very modest means have particular difficulty but that those of moderate income should be expected to pay the economic cost of their housing. We also recognize that the very poor in Metro Toronto continue to need some form of protection but housing opportunities outside Metro do not warrant it.

We therefore recommend that: (a) the current rent review legislation be allowed to expire throughout Ontario except in Metropolitan Toronto; (b) that rent review be continued for one year in Metro Toronto for family units whose rental is less than \$300 per month; (c) the government reaffirm its intention of continuing the Home Ownership Made Easy program; and (d) the government continue its sponsorship of rent supplements, complementing federal programs of this nature.

I might add as a postscript if I may that it might be appropriate to comment on the recommendation decided upon by city of Toronto council a week ago today. Its recommendation was to abolish the rent review program but to allow increases of seven per cent per year for the next two years provided that a target level of rental housing starts was achieved. Increases beyond seven per cent would be allowed where major repairs were undertaken or major refinancing was required.

It seems to us that the target of rental housing starts would be incapable of achievement by the many small landlords who are fully committed financially at the present time and they would suffer for the perceived sins of omission of the larger landlords who failed to meet this target.

On the other hand, landlords who are fully committed with say 90 per cent of the property mortgaged might find it advantageous to abandon their property to the tenants or to the state if their costs were not met by the

fixed rental income. This is what has happened in many instances in New York City and today whole blocks of apartments lie in ruins. It is not a policy where they have support. The possibility of abandonment of existing rental stock is noted in your policy options for continuing tenant protection, page 16, as a criterion for landlord relief. We believe it is important to create a climate of confidence for the investor to return to the rental housing market and your committee is encouraged to recommend incentives rather than disincentives to achieve that end.

**Mr. Chairman:** One question, if I may, regarding the four recommendations you have supported: I understand why you would remove the control program other than in Metro, but with regard to the second recommendation could you perhaps elaborate? How did you arrive at the number of \$300 per month?

**Mr. Bryan:** That's really for a family unit with people getting around \$14,000 a year and below. It needs in our view some protection for the next year's period—so they can make their minds up as to what they are going to do. But for people beyond that—this rental ripoff for the rich by rent review which we have suggested should not continue to take place, believe it or not. We are simply favouring the protection of those with family units in the lower quintiles.

**Mr. Makarchuk:** In the first place, gentlemen, I find it rather interesting that you, a group that represents—and you read *The Corporate Elite*—companies like CP Rail, Toronto Dominion Bank, Southam Press, Consumers Glass, National Trust and everything else, keeps introducing this idea of New York.

Have you looked at the sociological problem in New York where four million people moved into the city from Puerto Rico and the southern states to create the problem there? And yet you use that as an example to knock rent controls. Have you looked at Cairo? They have no rent controls. Have you looked at the housing markets there? I mean the intellectual integrity in that case is about the same. I could say look at Cairo, the housing is bad. They have no rent controls so therefore rent controls are needed.

Okay, that's the first question. Now, let's get on this quintile—

Interjection.

**Mr. Makarchuk:** Let's get away from this mythology of New York that seems to be coming up in this committee over and over again, particularly from briefs that are presented by HUDAC and various other groups.

Interjections.

**Mr. Makarchuk:** There comes a limit to what you can tolerate—

**Mr. Williams:** You are badgering the witnesses.

**Mr. Makarchuk:** I am not badgering. From a single solitary landlord who may have his prejudices and so on, he can come here and he can use that argument; but when you see a corporate group of this nature present that sort of bankrupt argument it bothers me. I just want to express that.

**Mrs. Scrivener:** Mr. Chairman, could we have a little civility to this witness?

**Mr. Williams:** Don't be offended, gentlemen, we get this every day.

**Mr. Makarchuk:** That's right, and some of them deserve it more than others.

On the matter of your quintiles, if you got a breakdown—you say, 34 per cent, 46 per cent, the lowest three quintiles in terms of income—have you got a breakdown of what the income levels really are of those people?

**Mr. Bryan:** It might be helpful if I just gave you this thing. This is simply an extract from the Canada Year Book of 1976-77. I think it will answer any specific questions you may have. I think I would be very happy to leave this with you if you will allow me to.

**Mr. Hall:** Can the committee all be provided with a copy of that, Mr. Chairman?

**Mr. Chairman:** Thank you very much. We'll do that.

**Mr. Makarchuk:** The low quintile—the average over here—is \$6,000 or \$7,000. In other words for the people at 34 per cent, their average income is about \$7,000. The others go to \$11,767 and the other one, 58 per cent, is \$14,673. Did you figure out in terms of what, if you are working on a percentage of rent that they would be contributing—in other words, the people who are making \$7,000—and this is an average, mind you, there are people who may be making more, and of course it doesn't really reflect the reality?

The reality is that 80 per cent probably would be making about \$3,000 or \$4,000 and there may be a few who are making more. But if you have a \$7,000 income and you work on the basis that a quarter of that, 25 per cent, could go into rents, that means about \$175 is what they pay in rents. Could you see the hardship that 20 per cent of the population can have in trying to find rental accommodation in Toronto? Or anywhere else for that matter?

**Mr. Balfour:** I think we've said here rents below \$300 should not be decontrolled. It seems to me that your \$175 person is protected.

**Mr. Bryan:** There is also the matter of the rent supplement. We are convinced that the matter of the rent supplement which you now have in place, along with the federal government rent supplement program, is addressing itself exactly to the group of people which you so rightly point out is having a hardship. We agree with you.

**Mr. Makarchuk:** If you carry this thing through you find out that you've got 60 per cent of the people which would represent—let's assume there are approximately three million families in Ontario—this would represent something like 1.8 million families. If you take the average of this group here, the three lowest quintiles, that's 53 per cent of the population so you would have 900,000 families in Ontario having problems, or could have problems, in affording rents. What you are saying in effect is that the rents up to \$300 should be controlled.

**Mr. Bryan:** That and given a rent supplement.

**Mr. Makarchuk:** What is there to prevent the landlord from putting his rent over \$300 and he's out of the control level then?

**Mr. Bryan:** The same system that's got the thing controlling it from getting over \$300 right now. You've got a rent review program. These people who were on here an hour ago were telling you how they did it.

**Mr. Makarchuk:** In other words, you want rent controls to exist up to the \$300 level? Is that what you are driving at?

**Mr. Bryan:** Yes, within Metro.

**Mr. Makarchuk:** Within Metro only?

**Mrs. Jeckel:** May I say something?

**Mr. Chairman:** No, excuse me, you may not. We have trouble enough with Mr. Makarchuk.

**Mr. Makarchuk:** If rents go over \$300 or if you have the gradual increase, the six per cent or whatever the guidelines are, then they become decontrolled?

[4:00]

**Mr. Bryan:** It's certainly a unique arrangement.

**Mr. Makarchuk:** Okay, that's all I have right now.

**Mr. Williams:** In your recommendation one, you suggest that the program be continued in Metro Toronto. Are you being literal in that sense or are you talking about Metro

Toronto and region, taken in the broader context?

**Mr. Bryan:** We're saying Metro.

**Mr. Williams:** So you wouldn't think areas such as Mississauga, or Richmond Hill, or Oshawa, or Pickering should be included in the continuing protection? You are using the Metro Toronto political boundaries?

**Mr. Bryan:** Yes.

**Mr. Williams:** I see. Further on the point that we were discussing a moment ago, recommendation two, you're satisfied that the \$300 figure which was referred to by the chairman is an appropriate breakoff figure.

**Mr. Balfour:** This is our opinion, yes.

**Mr. Williams:** Could you elaborate again as to how you arrive at that figure? This morning the representatives from the city of Toronto used the seven per cent factor figure and they tried to rationalize how they arrived at that figure, using a variety of statistics. I wasn't personally particularly satisfied with the way in which they rationalized the seven per cent factor and I'm not entirely satisfied that the \$300 per month figure is the appropriate arbitrary figure to use. Could you elaborate further on that to try to persuade me otherwise?

**Mr. Bryan:** Yes. I'll go again. What we take is the amount of money that a family with an income of roughly \$14,000 can appropriately put out in rent. In our view, that's of the order of \$300 per month. Fourteen thousand dollars is well into the second quintile of income earners.

**Mr. Makarchuk:** Not second, it's third.

**Mr. Bryan:** That's right. If you look at that very carefully, you'll find that I'm taking it at \$14,000 in 1978. Although it's in a 1976-77 year book, that is based on an earlier effort. That figure is a little bit old, although it's the latest figure I've got and I can't get any later out of Statistics Canada. That figure's a little bit old, but the figure I'm giving you of \$14,000 is very new and that is, in my belief, well along in the second quintile. If you've got this median family income, the median of the whole range, when you get down about the 40 per cent range and below, we think they should be protected. In the 60 per cent range—if the rich are indeed the upper 60 per cent—we think that they should not. It's that simple.

**Mr. Williams:** I'm sorry, but where did you get this \$14,000 figure from; the \$14,000 income?

**Mr. Balfour:** Roughly, 25 per cent of \$14,000 is \$300 a month, more or less.

**Mr. Williams:** Yes, but where did you get the \$14,000 figure?

**Mr. Bryan:** It has to be derived from this, and those of us who've been dealing with housing statistics and incomes in Toronto are looking at the median figure. We've got a figure pretty well agreed—the city of Toronto may have talked to you about it if they were on this morning—of \$17,000. Maybe by now it's \$18,000. It's the family income which they call the median income. In other words, 50 per cent of the families are below \$18,000 in Toronto; 50 per cent of the families are above \$18,000 in Metro Toronto. We've gone down slightly from the 50 per cent, down to about the 40 per cent level and we've, therefore, taken that \$14,000 as along that area.

**Mr. Williams:** So you're using Toronto income figures?

**Mr. Bryan:** The city of Toronto is deriving its figures from Statistics Canada and we're doing a derivation from those, yes.

**Mr. Hall:** I notice the advisory council's been in action since 1960 and I'm rather surprised, considering the membership list which you've attached here, that you might not have helped me out with your views as to why we got into rent review. What surfaced was the shortage that started to develop in Metro and in other metropolitan areas in the period, maybe increasing from 1972 on, 1973, 1974, 1975.

However, I have been led to believe all along that there are substantial legislative changes in the tax structures of this country which started to set up disincentives for people to invest in this market. If there was ever a group that came along that would make a comment on it, it would appear to be the group that you gentlemen represent and yet you have not touched on this. I wonder of you would tell me whether the capital gains legislation and any other federal and provincial matters tended to work against the construction of new units and therefore exacerbated this problem by 1975.

**Mr. Balfour:** I think that's so. I think there are federal, provincial and municipal regulations which have inhibited the building of houses. As an example, one of my neighbours is trying to build two houses on our street, on spec. It has taken him seven or eight months to get the permit for one, he hasn't got the permit for the second. As he tells me, they both conform with the municipal bylaws and everything else but it just takes time.

**Mr. Hall:** I am familiar with the slowness of approvals of that nature and I think we all hear of that and comment on it frequently around here. But can you help me out on that



at all in the area of taxes and changes in tax laws, Mr. Balfour?

Mr. Balfour: Mr. Bryan may be able to, I am not a tax expert.

Mr. Bryan: I don't pretend to be a tax expert either but I think your red book which you call a green paper outlines many of the many problems and that is as succinct a form as you need to get.

Mr. Hall: There is no suggestion that they be reversed and some of them are reversible. Yet no one is making the suggestion that they be reversed to attract interest in this investment field again.

Mr. Bryan: I must confess we thought we were really talking about rent review as such and that is the question to which we addressed ourselves rather than to the totality of the tax structure.

Mr. Hall: Rent review begs the question, do you in the long run help the tenant by keeping controls on or do you in the long run help the tenant by taking the controls off?

If the view is that the tenant is best helped by having a selection of good tenancy locations in various parts of the city and a large enough surplus so that he has freedom of choice and ability to move, how do you achieve this? This gets into whether mistakes were made federally and provincially that should be undone. You suggest shelter allowances and forms of supplement, which are tax dollars as well. I am asking if there are any other areas we should be looking at that you haven't touched on.

Mr. Bryan: This whole business within the provincial jurisdiction of what from memory I'll call land speculation tax, as you know, was set up to keep a lot of foreign capital from coming in here and making a big profit. The provincial Legislature decided to pass it and one of the demonstrated effects of it was, it certainly achieved its goal, it stopped foreign capital from coming here.

Mr. Hall: There are two pieces of legislation, there is the land speculation tax and there is a 20 per cent tax on land transfer to foreign owners.

Mr. Bryan: The one that keeps or stops foreign capital from coming in and making a profit is the one I am really talking about because that certainly did stop a lot of foreign capital from coming in.

Mr. Hall: And that has been remedied with regard to certain types of holdings now.

Mr. Bryan: The real problem, as we see it in Toronto, with getting more stuff built is what started out being a "magnificent" holding bylaw. The whole development business

in Toronto has been at a standstill for five years; it is literally since 1972, 1973 until now. The only thing that is being built is that which had approval for building prior to that item taking place. Within Toronto that is a real stopper. At the very minute there is a lot of stuff ready to be built as soon as the OMB comes out with some form of decision on the central area plan and that carries on.

Presumably it is going to be appealed to the cabinet and the Lieutenant Governor in Council will make whatever decision they need to make. After a green light of some kind is given, a great deal of development money is undoubtedly going to start building stuff in Toronto and it is going to build housing. Some of it will be condominium housing; some of it will be rental housing. I won't burden you with the plethora of plans which are public knowledge for those who have attended the OMB hearings because they are all there on the record.

Mr. Chairman: Thank you, Mr. Bryan. Gentlemen, thank you very much for your time.

Mr. Krehm, O'Shanter Development Company, we have your brief. It's nice to see you back again. I was just going to ask if it was your intention to read it.

Mr. Krehm: I would like to read most of it. I will leave out a portion that does not strictly deal with the Landlord and Tenant Act.

To evaluate the Landlord and Tenant Act in its present form, we have to note the context in which it's being applied. Though rent review undertook to pass through the landlord's costs, the reality proved quite different from the undertaking. Yet even if the avowed purpose of the legislation had been achieved, it would at best have frozen landlords' earnings, where they had already existed, in rapidly shrinking dollars.

In this setting, the revised Landlord and Tenant Act stepped in and told the landlord he was welcome to the rents allowed him by rent review if, in effect, he could succeed in collecting them. It set up barriers and hurdles between him and a carefully apportioned income that he needed for his survival, as though it were organizing an obstacle race.

With the former damage reserve transformed into the last month's rent, the landlord has no recourse against the tenant by the time he gets his apartment back. He can sue for any damage and then try to collect. Often the tenant is hardly worth suing, and such procedures would only add to his loss.

He is left without any serious means of preserving that elementary discipline that is essential wherever any group of people live together, not only for the defence of the property but for the quiet enjoyment of other tenants.

The Landlord and Tenant Act and rent review were both creations of the provincial government, but don't believe for a moment that this sort of thing stopped at the level of provincial politics. Municipal administrations rushed joyously into this fray. Beating the landlord became the popular sport of the year. In many municipalities, building inspectors, suddenly finding themselves with a lack of new buildings to visit and to apply their talents to, stepped up their demands on existing apartment buildings. There were even instances in our own experience where building inspectors attached to their work orders the business cards of their favourite contractors.

Nobody paused to keep score of what these multiple assaults upon the landlord and his revenue might add up to and how the bill was to be met. That can be explained in only one way. Our politicians had succumbed to the temptation of replacing a complex social problem with a villain. Of course, you can't strike a villain too dead. Any blow against an enemy is, by definition, good, and two blows are better than one. There is a lot that's attractive about such a procedure. It's certainly more satisfying emotionally than adding up columns of figures, but it is a flight from reality. Sooner or later its satisfactions are bound to sour.

It isn't my purpose to blame anybody for the mistakes that were made. On the contrary, I want to emphasize how readily we can slip into the dangerous convenience of replacing a problem with a villain. The kneecapping of the Italian Red Brigades is only a logical extension of this innocent human foible.

[4:15]

There is then good reason to pause in our tracks and assess the costs of the last revision of the Landlord and Tenant Act to the rental housing stock of the province. The sheer monetary cost is considerable. According to the green paper, some 20 per cent to 30 per cent of tenants cannot really afford rental housing at market costs. That is a social problem, rather than one specifically of the landlords. However, it is a problem that a healthy rental housing industry could contribute to, to help solve. But by making landlords fair game for any unscrupulous tenant and by keeping rents down below cost increases or below absolute costs, we

have been dissipating resources that should have been carefully applied to remedy a serious problem where it really exists.

That wasn't done. Our rental housing stock is being devoured. I don't want to sound melodramatic, but when tenants don't pay rents that are high enough to pay expenses and permit the maintenance of buildings as they should be maintained, only one conclusion is possible, that housing is being consumed.

It isn't necessarily the needy tenants who are deriving most of the temporary advantage from this potlatch. Affluent tenants, perfectly capable of paying the full costs for their apartments, are being subsidized. Part of their income that should have contributed to the revenues of their building is being diverted to luxury expenditures in other areas. Certainly the proliferation of luxury consumer magazines in Toronto and the multiplication of expensive restaurants have not been entirely unrelated to the existence of rent review. It is quite a while now that the secret has leaked into the public prints that the big bargain, not only in housing but in all markets today, is in residential rents.

One cost of the present Landlord and Tenant Act is thus monetary, but there are other costs as well. One of these is the moral one. To be respected and thus workable, a law must be just and evenhanded. As at present constituted, the Landlord and Tenant Act is a crudely partisan bit of legislation. It is inspired by the stereotype of the landlord as a gouger. Its clear objective is to clobber him wherever possible.

Thinking in terms of stereotypes is as dangerous when applied to economics as when applied to race, religion or sex. There is a grotesque lack of symmetry in the treatment of tenants and landlords under the current Landlord and Tenant Act. Even without a lease, the tenant has security of tenure. The lease of a landlord is worth little to him. The tenant can walk out on his lease after running up hundreds of dollars in arrears and damages. The only recourse of the landlord is to find him and sue. Many tenants aren't worth the suing.

The landlord, on the other hand, is anything but judgement proof. He doesn't evaporate lightly. Creditors, tenants and governments know exactly where they can find him. He is anchored by a substantial investment.

Given this disparity between the positions of landlords and the average tenant, the act stacks the cards unfairly and needlessly against the former. What used to be a damage reserve refundable only at the end of a tenancy was made into a last month's rent.

A tenant can thus run up, say, three or four weeks arrears in the middle of his lease and then disappear. The landlord is thus left with an apartment to rent in a matter of days.

Losses from such skips have become a costly problem, especially where the rental market is weak. Let me confirm to you gentlemen that the rental market is weak in broad areas of Metropolitan Toronto. I would be very happy to provide you with what statistics from our own operation you may wish. All this gives the landlord less claim to his property than it gives the tenant. Rights are fine, but unless they are balanced by commensurate responsibilities they lead to abuse.

Such disparities exist in every area of tenant-landlord relations. A tenant can hold off paying his rent for 20 days. If taken to court and he pays at that time, he is automatically reinstated in his full rights. He can do this month after month. No such forgiving spirit, however, appears in the penalties that the province has set up to govern arrears in the payment of municipal taxes. I quote from the back of the tax bill: "On any amount unpaid after the due date, a charge of one per cent will be imposed on the first day of the default, followed by an additional one per cent added on the first day of each calendar month." If the instalment left unpaid was due on the 25th day of the month, that means two per cent interest over one week, or a rate of over 100 per cent per annum.

The money to pay taxes when due necessarily must come from the prompt payment of rents. The act encourages tenants to be poor payers. In fact, with widespread budgetary problems, arising from inflation and recession, tenants are pushed in the direction of late payment of their rents. Heavy penalties are exacted on arrears by utilities, department stores, credit cards, and banks. Late payment of rent does not cost the tenant a thing. But it helps make the landlord incur usurious penalties for the late payment of his taxes and utilities. To complete the picture, rent review officers do not recognize such penalties paid by the landlord as an expense in determining rent.

What, allow me to ask you, is all this supposed to be about? To support this crazy structure of asymmetry in landlord-tenant legislation, it was necessary to generate an atmosphere of witchhunt, otherwise the patent injustice of the whole arrangement could hardly stand. That, in fact, is what has happened.

That introduced a nonmonetary cost into our Landlord and Tenant Act that it would be a mistake for this committee to shut its eyes to. One of the members of our association had some buttons made that read, "Land-

lords are people too." At the risk of upsetting some parties' stereotypes, let me confirm that they are. Few of them have come through the last three years without a deep feeling of injustice and even of outrage. They are, of course, trapped in what rental properties they happen to have. But the government should not bank too heavily on that.

Members of this committee have expressed concern about whether the private sector is going to add to rental housing. Let me say that unless this moral atmosphere is radically altered, few people are going to become involved in creating or acquiring rental property. Bribes and subsidies alone will not do the trick even if there were money to be earned in this way. Money simply does not mean that much to me. There are plenty of businesses left in Canada in which an investor can enjoy subsidies and at the same time be esteemed as a gentleman and a scholar. No need to volunteer for further services as a leper.

Yet another cost of the present Landlord and Tenant Act must be mentioned. The stereotype upon which it rests helps cut off legislators and administrators from the world of reality. They are led to see the world in terms of good guys and bad guys—with all the sociological sophistication of a wild western movie. That hardly contributes to our coming to grips with our very serious housing problem.

Thus the NDP resolution read to this committee last week makes the point that interest should be allowed only on the unamortized portion of capital repairs and not on the whole amount. The implication is that too much interest has been allowed. The reality is that no interest was allowed at all. The members will find the particulars in the next two paragraphs of the brief which I will skip.

The divorce from reality that results from cultivating stereotypes does not end here. I have sat at these meetings in wonderment as I listened to parts of the debate on what constitutes a fair return on rental housing investment. One member suggested that four or five per cent per annum, reckoned primarily in the appreciated replacement value of property over the years, would be adequate. I would recommend that such people try paying bank loans or provincial taxes with the increased replacement value of a property or even with the principal payments made on the mortgages. When a great part of the economy of this fair land is increasingly hamstrung with a cash-flow problem, I congratulate these committee members who can preserve such lyric innocence.



So long as we have our heads stuffed with stereotypes, we are going to be unable to deal with our housing problem. In my brief to you of three weeks ago, I mentioned that the reality of housing costs that rent review has laboured to suppress is being beamed in on us from other areas. Last week, the *Globe and Mail* added an item to this growing collection:

"An internal report has questioned Metro council's continuing ability to shoulder its share of the financial burden for subsidized low rent housing. Metro's yearly contribution to low rent projects has jumped from \$2.8 million to \$11.2 million in six years, and by 1982 it stands to pay \$33.3 million. In 1959, occupant rents looked after 85 per cent of operating costs; this year, the rate is 33 per cent."

Our tenants, by the way, helped defray that deficit.

As a first step towards working our way out of this mess, rent review must be discontinued and the Landlord and Tenant Act revised to provide evenhanded justice against abuses by either side. A tribunal must be set up to deal with all aspects of landlord-tenant relations in an expedient way. It must share the information it gathers on housing costs with the public. Only in this way can it keep down the caseload that it will be called upon to handle. Without such information, tenants can't possibly know whether a rent increase means their landlord is gouging or merely trying to pay his bills. This tribunal must not be vested with arbitrary powers such as the rent review officers had in theory. The rules that it must observe should be clearly spelled out.

Builders and landlords have always operated in a risky, high-levered business and, because of that, they've learned to recognize loaded dice when they see them. If they are to risk losses and even bankruptcy they insist on having a chance of making substantial gains if they shoulder those risks successfully. If you want them to do a job you can't strip them of the possibility of such gains and leave them welcome only to the risks and the losses. Restore the market and the market will come up with some surprising results. Let me explain myself.

There are, of course, other factors apart from rent review and the Landlord and Tenant Act that have contributed to make rental housing unaffordable to broad sectors of our population, and unless these factors are removed, it's unlikely that the larger quasi-institutional developers will enter the field again. But entrepreneurs come in many

shapes and sizes. There are the cautious, the averagely daring, and the big plungers.

[4:30]

I'm going to mention no names, but in Toronto over the past couple of decades, whenever the rental market promises to improve, one large promoter rushes in and invariably starts several times the number of units that the market can possibly absorb. Then he usually goes bankrupt and leaves his creditors to finish the projects. After that, you hear nothing about him until the next boom or pseudo-boom is on the horizon. This, of course, is an extreme and picturesque case, but by creating temporary gluts of accommodation, such plungers put up housing at less than the cost would be if construction were postponed until all of the new units were really needed, and during the first few years of the life of such housing, tenants are able to pay rents far below the true costs of their apartments.

But it is important to note that such initial rents cannot be taken as the norm of what a fair rent must eventually be. If you do that, you undermine the market scheme that was responsible for producing these units in the first place, and that in fact is what rent review has done. Restore the market and changes will start happening. First, the plungers will turn up again, then with our heads cleared of stereotypes, we can address ourselves to the next step. We could begin by removing from modest rental housing, and here I am counting on the NDP to think of modest tenants, the crushing burden of taxation that has contributed to make it unaffordable.

**Mr. Epp:** The Tory government has been in office too long.

**Mr. Krehm:** And NDP governments and governments in general throughout the world.

**Mr. Makarchuk:** We've never been in power.

**Mr. Krehm:** I suggest Sweden.

Our society has reached a critical point where the public sector has grown needlessly to a point where it is paralyzing the private sector. If you need the private sector to do a job, then respect what it needs for survival.

It was this loading of modest rental housing with taxation that helped knock out the private sector in many areas of the rental market, and when that happened the government had to step in to provide or subsidize housing. The cost of that exceeded by far the taxation that caused the mischief. A carefully thought-out program of detaxing modest rental housing would ease the burden on the taxpayer by bringing the private developer

back into the field. If you managed to bring one section of the housing market back into the scope of the private sector, the public sector would be relieved of part of the burden of taxation, the public sector would have more private sector to tax for income, and we could reverse the ruinous trend of the recent years.

I need not tell this committee that your real problem in connection with housing is not going to be the landlord but the taxpayer. Your main complaint against landlords is that there are going to be too few of the beast, too few of them. The mess that has been made of our housing problem by people intent on political effect has put a burden upon the taxpayer and the worker that they simply cannot support.

**Mrs. Campbell:** If I may, just following one line of inquiry, Mr. Krehm, I think you were here when I addressed my question to Ann Harriman with reference to the somewhat complex matters of financing and I know that you are very expert in this matter. I wonder if you could help us to understand, since I am going to accept your stereotype of us as legislators, the complexities of these intercorporate transfers because I think it is something that we must understand.

**Mr. Krehm:** Mrs. Campbell, I will try. While we are struggling with freeing ourselves from stereotypes of one another, this might be a contribution in that direction.

**Mrs. Campbell:** I have not felt there was a stereotype of a landlord.

**Mr. Krehm:** No. It may happen that you have the odd crook among landlords. The Department of Internal Revenue is up against that all the time. They have auditors and they also have statements under oath. In my own experience, when I go to either level of rent review I bring all my financial statements, audited ones, from the year one. My arm does not have to be twisted.

**Mrs. Campbell:** I am not suggesting that at all.

**Mr. Krehm:** If that sort of trickery happens occasionally it is not general among landlords, and by concentrating on that we are really falling victim to a stereotype. In brief words, I would say the following: Have the subjects make their statements under oath, review your criminal penalties against those who perjure themselves, and bring in the auditors, of which there are many I believe, in connection with your own Treasury. Put them to work. Don't flog landlords in general.

**Mrs. Campbell:** Mr. Chairman, I am not suggesting any criminal activity. The titles are

clear to observe if one knows how to search a title. What I'm talking about is where you have corporation A transferring to corporation B with what does not appear on title at least to be an arm's length transaction.

**Mr. Krehm:** The criterion is arm's length, and you have a lot of people very versed in how to ferret out the facts about arm's length transactions. Put them to work, but don't pillory landlords as a group because there is, or you believe there to be, a minority of crooks among landlords. There are among tenants and politicians and—

**Mrs. Campbell:** I would like to point out that I have not used that terminology. I am not suggesting criminal activity.

**Mr. Krehm:** I am.

**Mrs. Campbell:** I am suggesting that we do get firms with the same names recurring and transfers within those—for instance, one may own a property on a transfer, sell it and lease it back. I am not suggesting this is criminal.

**Mr. Krehm:** We have done that. This could be perfectly legitimate.

**Mrs. Campbell:** I am not suggesting it is anything else. There must be a gain in it to do it in this way and how does it reflect in your costs as they appear to tenants?

**Mr. Krehm:** Mr. Chairman, have we enough time for me to describe to Mrs. Campbell the particulars of such a transaction? I would be very happy to.

**Mr. Chairman:** We don't really. That's the problem. Mrs. Campbell, I take it, is sensitive to the the time problem that we've got. We really don't.

**Mr. Breithaupt:** Mr. Chairman, there have been comments made with respect to the mortgage refinancing or other dealings as problems which have added to the cost pass-through factors which tenants have had to pay. I would think that if there was a brief example of how this circumstance does occur, the reasons for it and whether tenants are unfairly paying an additional price which may have been churned up by paper transactions, we would perhaps learn something if we could take a moment or two to do that.

**Mr. Krehm:** I am afraid the example that I can talk about would not prove that, because it has nothing to do with that. It is a case where a property was sold and leased back. I would explain exactly why. It was 10 years ago.

**Mr. Chairman:** Thank you very much, sir, for your time. Before the next witness, if I may just have the attention of the committee

for a moment and those too who will be coming forward, we have a very severe time problem. We have, according to our agenda, 14 witnesses to hear. The committee, and I think everyone knew this when the appointments were arranged through the clerk, is not able to sit this evening. A goodly number of the committee members have other commitments this evening. I don't think, if we were to look at our calendars, that we have another evening ahead. This is the eighth week of hearing briefs.

It seems to me the only feasible thing for us as a committee and for you as witnesses to try to do in the remaining time is to ask you to restrict yourselves to something in the order of 10 minutes. We could then finish at about 6:45 p.m.

**Mr. Hall:** Which day?

**Mr. Chairman:** Today. To those who have provided the committee with written briefs, and a goodly number of you have, I think it would be helpful if you did not read the briefs—we have those, and we will read them—but rather just made some comments highlighting the written portion of your statements.

Are there any comments from the committee on the time problem?

**Mr. Duszta:** Mr. Chairman, if you allow 10 minutes for each presentation, as is appropriate, a very fast calculation suggests we're talking of 140 minutes, which is well over two hours. We thought we would stay here until 5 or 6 o'clock. If the rest of the committee would agree, we could set up another time to do it, with the understanding that we would not accept any more briefs; then we could deal with the rest in a better frame of mind and in a more leisurely way. I would suggest Monday night, for example.

**Mr. Breithaupt:** I am sorry. I was just wondering why you were only going to 7 o'clock? Were you not planning to sit through as needed?

**Mr. Chairman:** Mr. Breithaupt, a number of people have indicated to me they are not able to stay much beyond 6 o'clock. For a goodly number, 6 o'clock seems to be a problem. I myself have to leave, at the very latest, at 7 o'clock.

**Mr. Duszta:** We didn't originally schedule another night sitting. I don't mind having another night sitting, but we didn't schedule it for tonight.

**Mrs. Campbell:** Mr. Chairman, when we discussed our proposed schedule, my understanding was that we would give today whatever was needed to complete the hearings,

because next Wednesday we start deliberating.

I think that surely we shouldn't have these changes of plan without notice to the whole committee. We determined, when we were sitting discussing our procedures, that we would finish the delegations today. Personally, I don't see why we get these changes constantly in this committee.

**Mr. Chairman:** Is it your recollection, Mrs. Campbell, that we had set aside this evening?

**Mrs. Campbell:** Yes. We said we would sit as long as we had to to finish the delegations. We don't have time to hear them and go into all the consultations.

**Mr. Duszta:** I withdraw my suggestion.

**Mr. Makarchuk:** Would you consider a suggestion that the committee agree to sit until seven o'clock, Mr. Chairman? I would move that we try that.

**Mr. Chairman:** Let's proceed on that basis.

**Mrs. Campbell:** Yes.

**Mr. Breithaupt:** Let's proceed and see how it goes. We will have the benefit of delegations and the remarks will be in Hansard even if certain members can't remain. Let's see it through, so that at least we are able to benefit the public members who have shown an interest and want to come forward. I am sure they recognize these days have been very long for us but, of course, they have to sit there and they are long for them too.

It would be nice if we could deal with all of the parties, whatever time it took, with the hope that we would mutually be as brief as is practicable.

**Mr. Chairman:** Mississauga Tenant Action Centre, Leslie Robinson.

**Mr. Breithaupt:** Do we not have the Federation of Limited Dividend Tenants at all, Mr. Chairman?

**Mr. Chairman:** No, I noticed that up at the top; and yet those of you who stayed until the very end last Wednesday night, as I did, know that Rosalind Waters was good enough to appear last Wednesday night.

**Mr. Breithaupt:** Thank you.

**Ms. L. Robinson:** Mr. Chairman, my name is Leslie Robinson of the Mississauga Tenants' Association. This is Denise Larocque, who also works with me, and this is Ms. Ruth Perks, who is a tenant from Mississauga and will be presenting a very short brief when we are finished.

We are pleased to have the opportunity to come before you again to discuss landlord and tenant matters. Although these hearings



were initiated because of the Residential Premises Rent Review Act, most of our work focuses on situations relevant to the Landlord and Tenant Act. We believe you cannot separate the amount of rent a person pays from the laws that govern the tenancy.

The amendments to the Landlord and Tenant Act in 1975 were only a first step away from feudal relationships between landlords and tenants. They brought us closer to providing tenants with the security of a home rather than a place from which they could be uprooted at the landlord's whim.

[4:45]

Security of tenure provides tenants with the basic right of living in housing over which they may exercise some control. Knowledge of permanence allows tenants to better determine their own future and that of their children.

Although it is the Landlord and Tenant Act which contains the security of tenure provisions, without the protection provided by rent controls that security would be ultimately unenforceable. The law must not allow landlords to use rent increases against tenants in order to force those tenants out of their homes. No matter what form they take, rent controls must stay.

In our last presentation we suggested that the legislation provide for a landlord-tenant commission to deal with landlord and tenant matters, rent review matters and any tenancy related issues. It is our intention to present to you at this time the problems we have encountered with the present Landlord and Tenant Act and to make suggestions we have for its improvement.

Lack of education of the law is one of the most serious contributing factors to the problems which tenants face. It has also been our experience that even when a tenant has been told how the law applies, he still fears and mistrusts the law and is at a loss when to begin with its enforcement.

I would like to break here to say that when we were here last before you, on May 1, to offer our criticisms and suggestions relating to rent review, we discussed the need for a public rent registry and we also stressed the inaccessibility of rent review policies and procedures. Since that time we have received further information which illustrates these points.

For the past year and a half the tenant action centre has been able to get information relevant to our casework from the local rent review office in Mississauga. Since our presentation to this committee on May 1,

in which we were critical of the rent review office, this information flow has been cut off. The compliance officer has explained that the previous 18-month practice represented an extension of a courtesy to the Tenant Action Centre and that the senior rent review officer has directed that this courtesy no longer be extended. I am sure it is gratifying to the members of this committee that these hearings are already having an impact on the community.

Denise will now present the points we would like to make about the Landlord and Tenant Act itself.

Ms. Larocque: We have encountered numerous problems because of the lack of clarity of the act in defining who is a tenant. We believe the definition of a tenant should include everyone who pays for accommodation other than for vacation or temporary lodgings. The law must be applied equally to all tenants.

Section 86 of the Landlord and Tenant Act abolishes the landlord's right to distrain goods for default in payment of rent. Although a tenant may lay a charge against the landlord under section 108 of the Act, or initiate an action pursuant to the act of replevin, he has no immediate and/or summary recourse. Provision should be made to allow for a summary remedy to this situation.

If a tenant wishes to leave an apartment while under a lease, the law allows the tenant to assign, sublet or otherwise part with possession of the rented premises. The landlord may make a charge for his reasonable expenses incurred by giving his consent to sublet. Landlords in Mississauga are charging anywhere from \$50 to three months' rent for their consent. We feel this should be amended to require landlords to present proof of their expenses to the tenant before the tenant is required to pay.

Some landlords make a practice of refusing their consent for subtenants because the tenant has not paid the landlord's exorbitant and arbitrary consent fee. Landlords have also been known to refuse their consent if the tenant has previously attempted to secure his rights. Tenants have also frequently been misled by landlords when discussing the tenant's responsibility involved with subletting.

We have attached a form letter marked schedule A which is an indication of one landlord's abuse of this section. Briefly, schedule A is just a letter which is sent by a very large and well-known landlord in Mississauga to tenants. It requires that the tenant sign the form. The tenant is either required to pay \$75 to sublet the apartment himself, advertise,

arrange for painting at no cost to the landlord, and cleaning. Otherwise, the tenant is to pay \$250 to the landlord to find a tenant and then, of course, if there is any damage to the apartment the tenant will have to pay for that also.

We have had many complaints of superintendents unlawfully entering rented premises. One superintendent in Mississauga was recently charged with 17 counts of theft from tenants' apartments. If tenants are to be required to provide their landlords with the key to their homes, landlords should be responsible for any negligent actions of their employees.

The Landlord and Tenant Act states that the landlord is responsible for providing and maintaining the premises in a good state of repair and fit for habitation. It also requires the landlord to comply with housing standards required by law. These standards vary from municipality to municipality. In Mississauga, the building standards bylaws are more suited to single-family residences rather than multiple units. We feel that due to these discrepancies, the Landlord and Tenant Act should protect all tenants equally by being more specific about the state of repair required.

We feel the landlord should be responsible to paint the interior of the premises at least once every four years and should be responsible for maintaining the quality of plastering, plumbing, floors, appliances and structures unless damage is caused by the wilful or negligent conduct of the tenant. The landlord should also wash the outside windows annually. Unless this is stated in the act it comes to a judgemental decision about whether a good state of repair covers these situations. More specific legislation would keep these cases out of the courts.

Presently the Landlord and Tenant Act requires that tenants wishing to end their tenancies for a fixed term or monthly tenancy must give 60 days' written notice. With rental housing at its present shortage, tenants are taking a chance when they give 60 days' notice that they will not be able to find suitable alternate accommodation. Tenants should be able to resume giving 30 days' notice to vacate as they are more likely to have accommodation secured 30 days in advance than 60 days in advance.

The law allows a landlord to evict a tenant who has been persistently late in rent payments. The eviction must be at the end of the lease or term of the tenancy and requires 60 days' notice by the landlord. However, as there is in other causes for eviction, there is no remedy available to the tenant.

It is true that a landlord should not have to put up with a tenant who is persistently late with rental payments. However, this section can be used against tenants who are occasionally a couple of days late with rental payments.

We do not feel that this is a serious enough crime to merit automatic eviction without previous notice to the tenants. Landlords who legitimately wish to evict tenants for late payment of rent should be required to have notified the tenant in advance of his intention to evict for this reason. This would give tenants a chance to show that they can remedy the situation. Many tenants do not even know that late payment of rent is a reason for eviction.

A landlord may also serve notice of termination on a tenant whose conduct substantially interferes with the reasonable enjoyment of the premises for all usual purposes by the landlord or other tenants. A landlord is not required, however, to act on complaints from tenants regarding this matter. A tenant whose enjoyment is being interfered with by another tenant has no recourse if the landlord refuses to act on complaints. A landlord should be required to act on and attempt to mediate such disputes between tenants if the complaining tenant shows that he has attempted to resolve the dispute. If no satisfaction is reached, the landlord should be required to serve notice of termination on the tenant.

This will not result in tenants being able to have other tenants evicted for no reason, as the tenant being served would have seven days to cease and desist from the activity. Even then in the present system a judge would have to satisfy himself that the condition exists. We would suggest that the same requirement be placed on any officer of the landlord-tenant commission if such commissions were to be instated.

The landlord of multiple-dwelling premises with a common area for tenants is required to post in a conspicuous place and maintain posted a copy of part IV of the Landlord and Tenant Act or a summary as prescribed by the regulation. We realize this is difficult to ask of a landlord, because any tenant who wishes to use the act may tear it down from where it is posted. For this reason, we ask that a landlord be required to give a tenant a copy of the act or a summary with the first lease the tenant enters into. This is not an unreasonable request, considering it would only require as many copies per month as there are new tenants.

It is also necessary for the tenant, since the act supersedes what may be written in the

leases and some leases give information contrary to that found in the act, such as the period of notification required for termination of the tenancy. A copy of the act should also be maintained posted in the common area for those tenants whose copies of the act are not readily available. We hope this would assist landlords who have problems maintaining posting of the act. Although landlords are also required to post their legal names and addresses, this is seldom the case. As mentioned in our earlier presentation, we would encourage a central registry for rent levels. The legal name and address of the landlord should also be required to be listed at this registry with free access provided for tenants to this information.

Under the present law, caretakers do not have the same security of tenure as do tenants. If they cease to be employed by the landlord, they lose their apartment after one week of the termination. We realize that the apartment they live in is usually needed for the next caretaker, but suggest that the law be amended to give the caretaker the right of first refusal to any unoccupied apartments in the building or in the case of no vacancies that they be first on the waiting list of vacancies. We have had problems in the past with superintendents who co-operate with tenants' associations or with individual tenants who are trying to assert their rights. The superintendents must give their assistance in secret because both their job and their home is in jeopardy. We would suggest that the section of the act which protects tenants who are enforcing their rights or organizing tenants' associations be extended to protect superintendents.

Section 108 of the act states that a person knowingly contravening certain sections is guilty of an offence and upon conviction liable to a fine not exceeding \$2,000. This section is supposed to be enforced by the Attorney General's office. However we are not aware of any charges laid by the Attorney General in Mississauga, although we are aware of many contraventions. We do not feel that this office is doing a sufficient job of enforcing this section, and consequently when we inform landlords that they are liable for a fine if they contravene certain sections, the landlord informs us that he is unaware of that section ever being enforced.

The only alternative to the Attorney General laying the charges is that a tenant lay the charge. Tenants who lay charges are not eligible for funding under legal aid and are not familiar themselves with the procedures in provincial court. We ask that the Attorney General's office be expanded to en-

force this section and that the system of the delivery of legal aid be expanded to assist tenants in this position.

Any notice or document given to a tenant from the landlord is deemed to have been delivered if it is posted in a conspicuous place upon some part of the premises. This means that a landlord serving an eviction notice or any other document may post it on the tenant's door. This practice is being done and we are finding the results to be that either the notes are torn off the door so that the tenant never becomes aware of them, or the tenant's business with the landlord becomes known to anyone passing by the door.

We have had to make a number of court applications to county court to set aside default judgements because tenants did not receive their notices to appear in court. We feel this part of the section should be immediately removed. There are other provisions in the section for personal or mail delivery which we feel are sufficient.

Applications to lease are not presently specifically covered by the Landlord and Tenant Act. People who are looking for rental accommodation are often required to sign an application to lease and furnish the landlord with personal information. This information is then reviewed and the tenant is informed whether he has been accepted. We have no disagreement with this practice.

However, a tenant who has signed many of these applications and has been accepted at one apartment, can become liable to pay for the accommodations for which he has signed applications due to the clauses in the application which bind him to a tenancy agreement if accepted. Most landlords do not enforce this clause if the tenant is no longer interested in the premises. However, we have a fair number of cases where it is enforced by landlords with high vacancy rates, and tenants are being taken to small claims court. We suggest that the Landlord and Tenant Act include a section giving tenants the right to refuse or accept the accommodation without financial penalty for refusal when they are notified by the landlord of acceptance.

Although the Landlord and Tenant Act is very specific and comprehensive when dealing with termination of the tenancy by the landlord, the law is not as supportive of tenants who wish to have their tenancy terminated for cause. Tenants have been forced to apply directly to county court to terminate their tenancy due to a state of disrepair. Many tenants faced with the prospect of in-



itiating an action on their own in county court choose rather to stay, regardless of disrepair, or move out without properly terminating and face the possibility of being sued in small claims court.

As most of the form notices prescribed in the regulations are for the benefit of the landlord, we suggest that form notices be devised for tenants to give to landlords, and that the reasons tenants may use for termination be increased from nonrepair to include harassment, excessive noise, or breach of contract by the landlord.

As with termination of the tenancy by the tenant, the act prescribes very few self-help methods for tenants. Sections often provide that the tenant make an application to county court to remedy a situation. It is extremely necessary that when drafting new legislation and revamping the old, this committee keep in mind self-help methods. Negotiation between tenants and landlords must be open to compromise, and both must be equal partners knowing that their position is not being prejudiced.

Once again, we believe that a tenant's apartment is his home, and that it is simply no longer acceptable that tenants' homes be managed in the sole interest of the landlord. Decent affordable housing is a right which cannot be denied.

**Ms. L. Robinson:** As we stated in our earlier presentation, the confusing systems which face the tenant today are commonly counter-productive. A tenant considering an application to a judge of the county court is often terrified of his prospects there, let alone his feelings of ignorance of the system. Whatever system is devised, it is essential that it be devised with the concept of permanence in mind.

It is not likely that the provision of decent affordable housing is a necessity that will disappear in the future. We cannot stress often enough that any system which replaces the present one respect the high level of protection of due process, as does county court, be more informal and accessible to tenants and be a more effective, more competent system than those presently in existence.

In our earlier presentation, we suggested a method by which a housing commission might function. We would ask that you refer to that brief.

[5:00]

Ms. Perks is with us. She is a tenant in Mississauga whom we have been dealing with. We asked her to come with us to ex-

plain a specific situation in the apartment building where she lives.

**Mr. Acting Chairman:** Ms. Robinson, as the chairman explained a few moments ago we had asked the remaining witnesses to try to capsule their written briefs. We have given you the liberty of reading all of your brief into the record and it is open to the members of the committee whether they now want also to hear particulars of a specific case. Is this a lengthy presentation that we are involved in or is it one—

**Ms. L. Robinson:** It is two and a half pages.

**Mr. Acting Chairman:** Do you want this read into the record?

**Ms. L. Robinson:** Yes, I think so.

**Mr. Acting Chairman:** All right, carry on.

**Ms. Perks:** My name is Ruth Perks and I am a tenant at 55 Park Street East in Mississauga. In late April of this year, I decided to take a petition around my building to get something done about the state of uncleanness and disrepair in the building.

The petition read: "We, the undersigned tenants of 55 Park Street East, are protesting the lack of services to this building for which we are paying rent.

"We have been without proper garbage disposal since November 1977 with no visible sign of anything being done about this matter. Garbage is being placed in the back room, often in paper bags. Outside bins are being left open, and with warm weather coming, this is going to become profuse. Cleanliness in this building is not being maintained. Halls and stairways are a disgrace, not being washed or vacuumed. There is dried vomit on the stairway which has been there for weeks. We, the tenants, feel ashamed to have our friends visit because of this deplorable condition.

"Complaints of noise are left unattended, although you state in your lease 'No unnecessary noise' and 'Carpets on the floor, not scatter rugs.' All tenants who sign a lease should be made aware of this, as it is not fair to other tenants who do have carpets and yet have to endure the noise of thoughtless people above them.

"Security to this building is nil. Doors are left open for anyone to enter. Tenants are constantly being bombarded by salesmen, et cetera. Security locks in the garage are reversed. Anyone entering the open garage door to the car entrance can gain entrance to the rest of the building but tenants cannot gain access from inside the building without a key.

"We, the undersigned tenants, are paying you our rent for the month of May but unless we have proper services regarding those items mentioned above, we, the tenants, are prepared to withhold all moneys for the month of June."

Out of 105 units, some of those vacant, we received 55 signatures on this petition to the landlord. It seemed as if something was going to be done until the superintendent and the landlord started harassing the tenants involved. My husband and I were personally harassed and yelled at by the superintendent in the presence of other tenants. This incident resulted in both of us having to see our doctor and being put on medication. As neither of us is in good health, we did not feel we could pursue the matter.

In addition to harassment from the superintendent, the landlord had phoned my husband to say that we were just causing trouble. On May 12, we received an eviction notice from the landlord. We were informed that we could fight the eviction in county court. However, rather than putting extra strain on our health and possibly being responsible for court costs, we have decided to move.

After having sent the petition around, we circulated maintenance questionnaires which were to be returned to our apartment. Many tenants informed me that they would not complete the questionnaire because the super had harassed them and made them feel very guilty. The tenants were afraid of being put through the same tactics that were used on my husband and myself. Of 105 questionnaires, only six were returned. One of the six had the section for the name cut out and was delivered by someone who knocked on our door, left the questionnaire, and ran down the stairs.

The tenants in the building are afraid of the superintendent and the landlord. They do not understand their rights. And there is no place they can go where all matters involved will be heard. I support the submission by the tenant action centre that there be a body to hear all landlord and tenant matters and that body should, if possible, include the relevant municipal bylaw enforcement office. When I phoned the bylaw enforcement office in Mississauga, the inspector merely phoned the superintendent, was given the assurance that a garbage compactor would be installed and did not follow up the matter.

Tenants must be educated as to how the law applies and I suggest more funds be allocated from the Attorney General's budget to fund legal clinics which carry on educational functions. Tenants must not be faced with the possibility of paying court costs,

no matter how small that possibility, because most tenants will simply choose not to get involved if faced with the possibility of footing the landlord's bill.

I don't think it is government's role to police landlords and tenants. I feel tenants should stand up for themselves but until tenants are properly educated and the system is open and accessible to tenants, fear and apathy will prevail. I thank you.

**Mr. Acting Chairman:** I have the following members who wish to ask questions, Mr. Warner and Mr. Epp. Any others wish to ask questions of the witnesses?

**Mr. Warner:** I will try to be quite brief. I take it from the underlying theme of your presentation that as far as you are concerned, with respect to the community of Mississauga, you would like to see some form of rent protection remain in force?

**Ms. L. Robinson:** We were here on May 1 and we did discuss rent review at that time. Rent review definitely has to remain in force across Ontario.

**Mr. Warner:** Yours is an area which lies adjacent to Metro and there had been a suggestion there could be rent protection for Metro Toronto and not other communities. Obviously communities such as Mississauga, which are within commuting distance and have similar situations to that of Metro Toronto, could be adversely affected if there was no rent control protection.

**Ms. L. Robinson:** To put controls only in Toronto would do nothing for the vacancy rate in Metro Toronto because the tenants in Mississauga who received extremely high increases would just move to Toronto.

**Mr. Warner:** Well, with your help I guess we will be able to get rid of that suggestion. Thank you.

**Mr. Epp:** I have a question for Ms. Perks. You raised some very interesting points. What kind of composition of tenants do you have in that building, that they are being harassed by the superintendent and management? A lot of immigrants?

**Ms. Perks:** Yes. What I was able to ascertain from tenants, who won't speak to me after they "unfortunately" had signed this petition, was they had been told to cease and desist or they would be out in the street.

These people were afraid to even say hello to me in an elevator. It was most ridiculous. If they had to get an elevator while I was on the elevator they would let it pass by, rather than get on with me, for fear they may be accused or get into some sort of

difficulty because I had taken this petition around.

**Mr. Makarchuk:** About the people who are collecting the \$250: Are many tenants forced into paying that amount of money?

**Ms. L. Robinson:** Not only are they forced into paying that amount but that is just a sublet fee. If the apartment isn't rented they are taken to small claims court for the damages the landlord incurred because the apartments remain vacant. Tenants have come to us owing three months' rent because they moved out of an apartment and it stayed vacant.

**Mr. Makarchuk:** Sounds like a case for a rent sharking business or something like that.

**Mr. Acting Chairman:** The next deputation is the St. Clair Avenue West Tenants Association. Paulette Hageman.

**Ms. Hageman:** I won't read my brief but I am hoping that you will ask me a few questions about New York City because I lived there in a rent control apartment for 10 years.

I worked in Spanish Harlem in one of the worst areas of New York City and I have seen what has happened since they changed rent control. We still have what you call rent control; we call it rent stabilization. Rent stabilization has been the salvation of New York City since 1970 when they adopted it.

Rent control in New York meant no increases whatsoever and when that happened that is when you had a problem with the decaying situation. To call this rent control here, this is not rent control, this is rent stabilization, which has been accepted in New York. The landlords complain a little bit, but if they are suffering, all this building that is going on and all the improvements that went on in my building and on my blocks and the things I have seen in the worst ghetto areas, where everything is being fixed up and cleaned up and people are working together as a team, landlords and tenants, to keep the streets safe and things like that wouldn't be occurring if they were starving. I'll go with my brief.

**Mr. Acting Chairman:** I think the members will undoubtedly want to take advantage of your New York experience. I hope that before these hearings are over that we have some witness in from Cairo as well to answer questions on that particular city. They seem to be the two favourite cities that are being bandied about.

**Ms. Hageman:** I also have a copy of the 1970 paper that came out when they changed from rent control to rent stabilization. You can have copies made of that. Actually I have

a copy of everything that shows the whole process of what it has progressed up to today, if you would like to make copies of it for your records. It might be helpful. You can see how they can derive the cost analysis of my particular apartment that I was in.

**Mr. Acting Chairman:** If you could make that available to our staff we will do that.

**Ms. Hageman:** I'll present it and she can make copies and then you can see how they went about making the transition. After my presentation, possibly you can ask me some questions about New York and I would love to answer.

**Mr. Epp:** As a result of this the NDP may have to redraft their whole position.

**Mr. Makarchuk:** At least we have a position to redraft, which is more than I can say for the Liberals and the Tories.

**Mr. Epp:** We just didn't want to preempt everything by making up our minds before we heard the facts.

**Ms. Hageman:** There are some glowing things happening there, so that I hope you will ask me. It is not terrible at all.

I am the representative of the tenants' association at 150 St. Clair West. That's at Avenue Road and St. Clair, which is a very nice area if you are familiar with that, and we are affiliated with the Federation of Metro Tenants' Associations.

The thrust of my discussion will deal principally with the problems of getting services, repairs and proper maintenance accomplished under the present legislation. In other words, you really can't get anything under the present legislation at this point. As a tenant I was put through months of inconvenience and harassment and I am very disturbed by the lack of proper protection afforded to tenants under the present system. The thought of less protection is very frightening.

I will be speaking from several points of view. I moved to Toronto from New York City in January 1977. My background and training encompasses teaching for 15 years, seven years in Spanish Harlem, and I was a licensed New York City real estate agent for five years, specializing in apartments, co-ops and townhouses. I was owner of two duplex apartment buildings and a tenant of a rent-controlled apartment in New York City.

[5:15]

It is my knowledge of the tenant laws and taxation system in New York City and in the US in general that I will draw from to present, hopefully, some viable suggestions to strengthen the current rent review.



There are many areas in the US where there is no rent review legislation necessary, but these are areas where you have high vacancy rates and then the market handles itself. They are very high vacancy rates. I cannot see how the total elimination of rent review would serve any positive purpose. If rent review had proved to be a positive workable channel or recourse for a tenant to resolve legitimate problems and complaints, I would not be presenting this brief today.

In March 1977 there was a complete turnabout in my building. The fantastic superintendent we had suddenly quit and the management changed hands. Little did we know that these two changes would bring about a year of hassles, problems, threats and conditions that would cause living conditions at 150 St. Clair Avenue West to become intolerable. I have included a copy of the letter in the back of the brief that you have that the tenants put together to send to rent review and the housing inspector.

From March to November the maintenance came to a standstill, the building was filthy, there was no preventative maintenance. We had everything breaking down—the apartments, paint coming down from the ceilings—in fact I sent a whole group of pictures to rent review for that, falling plaster, mice. When the mouse entered my apartment that was the last straw. That is when I started going around with my petition. Going down to the basement to go to the laundry room, you had to hop through these little rodents. They were running helter-skelter all over.

The rental rates in our building are \$330 to \$406 so you would hardly call us a low rental level area. For that type of rent I feel one does deserve decent accommodation. That rent does not include hydro. We pay \$35 a month extra for the garage and we get no building services.

There is no package delivery; there is no mail delivery taken if I am not in the apartment; older women in the building don't get any extra assistance if they need their bags taken from lockers or things like that, so there are 97-year-old ladies trying to get down the elevator. The main doors generally stay open. We are next to a public park, which bothers me; and there are no intercoms in over half the apartments, no daytime surveillance, et cetera, et cetera.

The occupations of the tenants in our 24-unit building range from five retired women living on pensions and investments, to university graduates and professional people. We are all a group of very well-educated and articulate individuals.

We found the current rent review process unworkable and frustrating, and not a safeguard of our interests. We found the whole process of rent review hearing to be a farce and a play on the interpretation of semantics. For instance, we went in figuring we had a good case of discontinuance of service. We had no service—our apartments, the halls were horrible. We couldn't have people over, it was embarrassing.

If you look in the booklet, it mentions loss of enjoyment of the building—we certainly weren't enjoying the building—and all the rules we felt fell into that. The rent review officer said his answer was, we had diminution of service, and our feeling was, if we had much less, what is less than what we had? We had nothing at that point so I don't know how he could call it diminution. He said if you have one garbage pickup, that is service, even if you don't have it most of the time. We discovered that barring the total collapse of the building, one cannot get a ruling on discontinuance of service.

The common denominator of unity in my building is that we all love apartment living and we have no desire to live in houses. The answer here seems to be, if you don't like it, get a house. Well, some people are not interested in homes. I am not. I grew up in these huge palatial homes and I hated it.

The first time I was able to be on my own, I rushed to an apartment. My parents thought I was crazy but some people like to live in apartments. Some people don't like living in homes and I am one of them; the rest of the people in the building also are. We are also not interested in the financial commitment involved in home ownership. That means you would have to make a decision to stay 15 to 20 years even if you only want to stay five or six years.

Also, it is not financially feasible. The salary range in the building is \$13,000 to \$30,000, and if you are a single individual—we have several single men who make \$30,000, they like to travel—\$30,000 in this country for a house is not a tremendous income, contrary to the fact that some people believe \$30,000 is a tremendous income; but by the time you pay taxes and what a house costs here, it doesn't leave you with much.

We are interested in establishing comfortable homes in our building and plan to stay for many years to come. Consequently, those of us who live in the building have put a considerable amount of investment into our apartments.

I would like to pass around a picture of what my kitchen looked like when I got the

apartment, what my bathroom looked like, and finished paint job on my front door, and the view from my front door, that was considered to be acceptable when I went to the rent review hearing. It is hardly what you would call a luxury apartment. This is what you get for \$406 a month. You can see from the pictures that our 1924 building does not contain modern bathrooms or kitchens and our elevator is one of those European lifts. If you stop pushing the button, it stops—original elevator from 1924.

We have no objection to reasonable rent increases as long as we have adequate maintenance and service is maintained. However, when we realized in the fall of 1977 that we were getting eight per cent and six per cent increases after eight months of haphazard, if any, services and maintenance, we felt the rent increases were not justified. We had already lost what few amenities we had, no painting, nothing. In the letter I wrote to rent review, we called it a European ghetto. That is how we felt it looked. If I had the pictures I gave them, you wouldn't believe how awful it looked.

So we sent a letter to rent review because I found out we had all these fabulous laws that are supposed to protect us. I went out; I got a petition signed; sent a letter to rent review; contacted the housing standards inspectors because I was sure they would be horrified and back us; I notified rent control. I sent a copy to the landlord figuring he would panic once he saw that we were doing all this and step in and do something; and then met with Metro Tenants and we formed a tenants' association.

The results were not as positive as I hoped. First, the housing inspector came. He looked around and he saw the plaster falling down, the paint chipped. I told him the fireplaces weren't working, showed him the broken windows.

We have an opera singer in our building. She is with the Toronto opera—whatever you call it, comparable to the Metropolitan Opera, I guess, in the US. She couldn't get her window closed and the window was over her bathtub and if she gets a chill on her neck, that is going to be considerable to her. She had to stuff everything with rags.

**Mr. Breithaupt:** I thought you were going to blame her for the broken window.

**Ms. Hageman:** No, no, it was that way when she moved in. They said they would fix it and then they never did. When it got very cold in January and the breeze was coming through all my broken windows, I just masked them up with tape. I am not allowed to have

someone hang outside the building to fix the window. That is not within my—otherwise I would have gone ahead and done it.

All the housing inspector said was that it was a shame. He would see what he could do. I took out the bylaw book and I said, "Look, the fireplace is sending in noxious gases, that is illegal. Rotting doors are illegal."

He said, "Well, it is a hassle to go to court." So they don't want to bother. I have other friends who have since tried it. They don't have vents in their kitchens, they don't have operating plugs. They come by and they say, "Oh, but you live in such a lovely area. You should be happy to live there."

You cannot get these inspectors to do anything. Barring the ceiling coming down to kill you, they will not do anything. He looked at the horrible ladder that is outside my door and said, "It is not illegal. It looks terrible but there is nothing I can do about it." I don't think any of you would like a ladder that looked like that right out your front door.

Pest control did show up but I think that goes without saying. We had a lot of mice. Some people were killing three and four a week. That's a lot. After that you never knew when you were opening a cabinet whether you would find a dead rodent greeting you on the shelf. Sometimes you would get a smell of something. You would sniff around and find a few dead ones in between some furniture. It was terrific!

I suggested we put them all in a bag and send them to the manager, but everybody was afraid to do that. I thought it would make him realize what it was like if we sent about 22 rodents to him in a package; maybe he would get the message, because he said we didn't have a rodent problem. Someone did that in New York with the manure service. When they wanted to make a point how they used to send manure in bags and I thought this would make a similar point.

I made arrangements with the manager to give him one more last chance before I went to rent review. I explained to him about the rodents and the broken windows, and I pointed out that door you saw the pictures of; I said, "What a thing to have for the holidays." He said, "That's a finished paint job." He said it was divine; everything was fine. He said I was a troublemaker and I could move out; and if I didn't move out, he was going to throw me out. He said we didn't pay any rent, our rents weren't high enough, et cetera. So enough of him; he really kind of frightened me.

Rent review sent the yellow forms—incidentally, when pest control did come, I was told to empty out all my shelves; I found out

later I was the only one asked to do so, and I had to cancel my party for New Year's. I had 20 boxes of canned goods and stuff that I had to leave in the dining room. So that was definitely harassment.

In January they finally fixed the mailbox that fell on the mailman twice; they glued that to the wall. The floors were finally cleaned and the chimneys were cleaned—only for those of us who were the most vocal about that. The broken window panes were left, and sometimes my apartment would be 64 degrees. Then, when I would call up for heat, I would be cursed at.

Finally, I was threatened with a bomb scare. I was told to vacate the premises; my apartment was bombed. At that point I called the police. It did come from the superintendent's wife. I know voices over the phone. I have an excellent memory. From teaching and listening to so and so saying such and such in the back, I learned a long time ago to know whose voice it was. So we called the police. After that, if I asked for heat, I would get buzzing on my buzzer system all day long—you know, pushing on it—and when I would have someone check downstairs, no one would be there. The only other place where you could get buzzed was from the superintendent.

I could hardly wait. I kept calling rent review, and they said: "Wait until you go to rent review and you tell the hearing officer. This is against the law. He'll protect you. And they'll help you. You tell them all this, about the bomb scares and all that."

Then I went to compiling the levels on the yellow papers. There was not one rent at the same level which has been discussed previously. This is something you are going to have to deal with. Why is the lady across the hall, who has lived in an apartment for 10 years, paying \$340 when someone two floors below who just moved in pays only \$325? The answer is because she doesn't question the increases. Her bank is notified and they automatically pay and no one is aware that these are not legal increases. I found that 99 per cent of the increases in my building were not legal, including mine.

In the beginning I intended to go to the hearing all by myself, because I felt with my educational background, a law course at Cornell University in labour relations, I certainly could represent a building and present a case to a hearing that was set up to represent the general public, not versed in legalities. I memorized Your Rights as a Tenant and all other available material. Luckily the hearing was postponed to the evening and

Jack deKlerk of the Metro tenants' federation came to represent us.

To quote the doctor of linguistics on my floor, and the psychologist on the second floor, we were lambs led to the slaughter. If we hadn't had Jack deKlerk there it would have been an absolute farce. We were addressed as children. When our landlord showed up we finally got to see him in person. I found out he was alive and breathing, and not a computer. He turned out to be a famous individual—his name is on the letters—well known for many other things besides being a distinguished lawyer. The hearing officer was impressed to no end and spent 15 minutes carrying on and on about how lucky we were to have such a distinguished landlord. The hearing officer spoke to us as if we were illiterates.

The other thing I object to is they brought the superintendent and the superintendent should not have been there, because we were really voicing complaints against the management and they were letting it all fall on the superintendent, so he felt like he was being attacked and too much of the time was spent on the superintendent defending himself. Of course, he is going to defend himself. If he is a lousy superintendent he knows he is going to lose his job. The point was really the management, not making sure that the superintendent was doing his job. That was the issue, not to have the superintendent there feeling that we were attacking him. So I object to that procedure of the superintendent being allowed.

My point is that if 14 tenants with graduate school educations cannot find recourse and protection under the existing laws, what chance does a less fortunate and uninformed individual have? The present rent review is a farce. Problems cannot be adequately dealt with and the hearing system is too long and tedious. Maintenance, repairs and services are not considered under rent review even as a discontinuance and the Landlord and Tenant Act accomplishes nothing.

[5:30]

We did not get a stove and fridge. We are entitled to that. That is definitely discontinuance of service. The rent review officer wouldn't even address that fact. We are working that out now with the landlord. The response of the landlord is usually, "If you don't like it, move out," and I feel that is not good enough. If I am a responsible tenant, I expect the landlord to be the same.

I would like to make some of the following suggestions that I have seen work to alleviate the problems of New York City due to the



new legislation that was passed in 1970, which gave relief to rent control landlords in New York City and stimulated and gave incentives to investors and builders to build more apartments. Most of them have been discussed with Metro Tenants, about standardizing leases and your rent increase forms, but you do need stronger legislation so that the landlord does have to listen to tenants' rights, which they do have to in New York.

You must have—which I think was the key to success in New York—a central registry of rentals. All rentals in New York City are computerized, if we had apartments where we were paying \$205 and it turned out the rent was supposed to be \$185, it would be lowered. This is very important, because you have differences now that aren't right. If someone gets an apartment and you ask what was the previous rent then they don't give it to you, whereas all I would have to do is write rent review a little note in New York and it would come back on a card what the previous rent was. If I was being charged something different then the landlord would be fined and he would be in a lot of trouble.

I don't think anything can be accomplished until you have this computerization of rents, because some of the landlords who were crying that they were losing might not be losing at all, once you actually know. It will separate the honest landlords from the dishonest landlords.

Also, rent levels should be linked with poor maintenance and disrepair—in my building, if my landlord does not keep up with, for instance, the intercom system. This does not seem to be an important thing here in Toronto. In New York, if my intercom system is not fixed within two days or something like that the landlord is given a heavy fine. Half my building doesn't have a proper working intercom system. I don't think this city is all that safe that your doors can be left open constantly. There is nothing in your bylaws covering intercom systems. They are not touched on. That's kind of an important thing, it really is. If you don't have a doorman you do need a working intercom.

Landlords should be fined and rent increases withheld if essential services, the intercom, plumbing, elevator, heating et cetera, are not repaired within a certain time. This would take care of your situation where you say they present bills and they didn't do it. In New York, you will see from the forms when you look at them later, the landlord has to sign an affidavit stating that he is doing these things. Then they send me a paper and it says if I object to this rent increase due to the fact that he is not doing

certain services all I have to do is write a little note.

I don't have to go to rent review. I don't have to go to court. All I have to do is write a note that my apartment wasn't painted or such and such didn't occur and they will fine the landlord if this proves to be the case. It seems to make things move along much quicker.

You should have a rent tribunal, which has been discussed. You can read the rest. I don't have to go over any of that. One point that hasn't been covered, which I think is important, is one month's rent is kept in abeyance in New York and we have an inspection. When I take the apartment it is inspected and I agree that this is the condition the apartment is in. This will take care of the problem where tenants say they suffer a situation where they say they are riding motorcycles down the halls and sledgehammering down the wall.

My apartment in New York is inspected. Then when I want to leave, the landlord comes in again and inspects it. If I have broken the refrigerator or I have done certain things then I will lose my last month's rent. It can't be an arbitrary thing. Because you know that you could possibly lose your last month's rent you are very careful to keep the apartment in good shape. It works, and no one has been gouged. I haven't heard anyone saying they were ripped off. Most of the time most of us get the money back, but those people who cause damage are going to lose it, and they deserve to. The future tenant should not be responsible for the carelessness of other tenants. I think this would take away that complaint that the landlords have been making.

Senior citizens in New York: If you have a disposable income—that means after taxes —of \$6,500 in New York City you are not allowed to charge a senior citizen more than one third of their income for rent. I don't know exactly whether the government subsidizes the difference or whatever to the landlord.

**Mr. Breithaupt:** It must.

**Ms. Hageman:** It must be. You don't get the situation I've seen in buildings where women are walking around with walkers and they haven't hardly enough money to pay the rent and they are terrified because they have no family to move them out and they are paying rents away above one third, which I think you need some kind of legislation for.

If my landlord in New York sells my building, there's none of this raising the rent for refinancing. He can't do that. Speculating

is not permitted. The only way he could raise the rent is if the whole building is renovated. In order for him to renovate it, he would have to give me one year's notice and he would have to pay for me to move and help me find another apartment. Then he can redo the building and charge whatever rents he wants. At this point, the fact that the mortgage goes up is not considered. It's heat and taxes and things like that. They manage. The buildings survive. They fix them up. Paint jobs are required every three years. Here there's no requirement at all. Apartments have gone as long as 15 years in my building without being painted. The halls have to be painted every eight years in New York City. These are things for which there are no laws. You get this type of thing as being acceptable, and I don't find it acceptable at all.

In conclusion, I should say that we did get together with my landlord. You have his name, so I just want to say some good things. It turned out he had put in a manager to represent him and it was the manager who was hiding the facts from him. When he saw what was happening to all of us, he felt terrible about it. Our hallways have been painted. I was put in charge of the committee and we were allowed to pick our own colours. The apartments that need to be painted are being painted, the repairs are being made. The intercom isn't fixed yet. We're still working on that. We're going to help fix up the lawn. He's going to buy tools for us. We're working together.

He doesn't have to do this by law. I don't like being in a situation where I have to be in the good graces and on the good side of the landlord. If he turns around and suddenly doesn't like me, or if he likes us but turns around and says he wants the building or allows the building to be in the condition it was before, I don't like being out in that position. I'd like to have some laws to protect me.

**Mr. Acting Chairman:** Thank you, Mrs. Hageman. Are there any questions by members of the committee?

**Mr. Epp:** I have one. She asked us to ask her about New York.

**Ms. Hageman:** Yes.

**Mr. Epp:** Have you got anything more to say about New York?

**Mr. Acting Chairman:** I just thought we had a lot of info in.

**Mr. Epp:** I wondered if there is anything further she wanted to say about it.

**Ms. Hageman:** I wrote several friends who are working in real estate, hoping I would

get more information. I asked them if they could give me as much information as they could. I got one letter the other day. He said they've established a tax abatement plan for new builders. If they build a new building or totally renovate a building by changing it, in other words, if four studios are turned into two bedrooms, or a commercial building is turned into apartments, they get a tax abatement for 10 years.

**Mrs. Campbell:** From whom?

**Ms. Hageman:** From the city.

**Mrs. Campbell:** Where are they getting their money after all their problems?

**Ms. Hageman:** This is their attitude. You've got a bunch of buildings that are laying empty.

**Mr. Epp:** They're almost bankrupt.

**Mr. Acting Chairman:** That's why New York is bankrupt.

**Ms. Hageman:** No. They didn't have any building go on because they had situations similar to what you have here with high taxes and mortgage rates. They complain about eight per cent but you pay more here in mortgage rates. Their building was slowing down because of the rent control. They changed that to get it to a faster level so that they could get a higher vacancy rate in New York. They took buildings that were commercial buildings and buildings that were not being used from which they weren't getting a particularly high tax revenue. They said it was better to get something in 10 years than to get nothing in 10 years. It's a staggered type of thing.

Pretty soon they'll be collecting taxes on those that started in 1970 and were completed in 1971 and 1972. In the end, it will work out. What bankrupted New York City was not rent control. What bankrupted New York City was pensions.

**Mr. Epp:** I wasn't trying to imply that. I was just trying to say that if they were bankrupt or almost, how could they keep on giving these incentives?

**Ms. Hageman:** They only started getting into the bankruptcy problem I think in 1975. Before that, no. If anything, this will be helpful, the fact that people are moving in.

**Mr. Makarchuk:** New York doesn't benefit from the tax structures in terms of transfer payments from the state and under the federal government to New York. We get 80 per cent of our welfare costs kicked in by the province at the municipal level; New York doesn't get anything.

**Ms. Hageman:** It doesn't get a penny. I worked in schools where everything was pro-



vided to the children, and was paid for by New York City. That is pretty costly, you don't have to do that here. That is what bankrupted New York City. But the point I would like to make is that I lived in an area on the west—pardon?

**Mr. Makarchuk:** I'm glad there is somebody who tells the truth about New York after the litany of horrors we heard about it. Every redneck creep that came up here with a brief—

**Ms. Hageman:** Right, I was sitting here.

**Mr. Makarchuk:** —was telling us what was happening in New York and how the place was going underground.

**Ms. Hageman:** No, it's not.

**Mr. Acting Chairman:** You had one further point to make, Ms. Hageman. We have 12 more deputations. Could you make your last point, please, and we will go on to the next deputation.

**Ms. Hageman:** I lived in an area on the west side that was five blocks from where they did the movie *Panic in Needle Park* which was supposedly a terrible area.

Well, from 1970 until now, it has been totally rebuilt. It is beautiful and the amount of space and availability of apartments is probably 50 per cent more than it was eight years ago. Building is just going on and on and on. This is occurring with rent stabilization which gives you increases of eight per cent on a one-year lease, 12 per cent on two years or 15 per cent on a three-year lease. When an apartment comes off rental control, the landlord can raise the rent to what is considered market level and then goes on to rent stabilization which then means it is eight per cent, 12 per cent or 15 per cent, similar to what you have here now.

If they can function under that, and there is all this building going on—I have seen Spanish Harlem go from the burning to the present rebuilding of beautiful housing projects and the involvement of private investors—it has to be working. I suggest you get some information and find out about the total formula and you can study some of the papers I have brought in. But it is working and beautiful things are happening.

**Mr. Acting Chairman:** Thank you very much, Ms. Hageman. The next group is the Parkdale Working Group on Bachelorettes. Barbara Adams.

**Ms. Adams:** This is a brief brief, it is only two pages of text.

**Mr. Hall:** You call it a brief brief, eh?

**Ms. Adams:** Yes. And we are moving from Avenue Road and St. Clair, down to Parkdale.

For over three years, the south Parkdale area has suffered the deteriorating experience of having many of its large beautiful older homes illegally converted into mini-apartment buildings with 20 to 40 self-contained units where formerly there had been three to five. In response to this serious problem, concerned residents formed the Parkdale Working Group on Bachelorettes and have taken several actions to fight and prevent further illegal conversions.

We are presenting this brief to you today because one of the main reasons for developers entering the bachelorette business is the immense profit to be made. While the housing stock to be converted is old, the renovated units are new and therefore under present legislation are exempt from rent control. Rents from these apartments run from \$50 to \$85 a week for a one-room unit, sometimes as small as eight feet by 10 feet with a tiny illegal kitchenette and bathroom.

A very conservative estimate of the number of such converted units is 1,800 in the south Parkdale area alone. Several other areas are also experiencing this problem, the Annex, the Beaches, the High Park area, to name a few.

The effect of such conversions on an area is serious indeed. Affordable and adequate accommodation for families and roomers disappears; transients and neighbourhood instability increase, for bachelorettes are not a good deal and tenants move out as soon as they find something better. Services such as sewer, parking, and telephone become grossly overloaded and break down.

We are appalled and angry about the effect on individual tenants who have so little housing choice that they are forced to live in poorly managed, inadequate buildings. Such a case was Mr. Glen Hicks, a diabetic and a disabled war veteran, who died recently when his refrigerator was repossessed and his insulin spoiled. Although he had paid his rent regularly, the heat and hydro were also cut off because the landlord had not paid for them.

[5:45]

The city has tried to prohibit these developments but the profit incentive is so great that many unscrupulous developers continue to circumvent the legal process. This incentive is best illustrated by a hypothetical example presented in appendix A, where a large old house bought for \$90,000 and converted into 20 self-contained units for \$90,000 generates an estimated profit of between \$200,000 and \$300,000 within five years. We estimate an average rent of \$75 per unit per week and a



vacancy rate of four per cent. We believe this example is representative of the highly profitable experience of most unscrupulous bachelorette developers.

Consider also that if the external structure still appears to be that of a large house rather than an apartment building, the tax assessment rises very little and does not reflect the increased profits being made. Surely effective action must be taken by all levels of government to ensure that these illegal conversions are stopped.

Therefore, we are making the following recommendations: Some mechanism for measuring the quality of housing should be introduced into the rent review legislation. Indicators of quality include size and number of rooms and adherence to municipal housing standards. New units should not be exempt from rent review legislation, particularly if they are newly converted units in old housing stock. Only a reasonable profit should be allowed on equity invested in such housing, a rate similar to that paid by Canada Savings Bonds.

We strongly urge the Ontario government to encourage the development of more affordable non-profit housing and to resist the pleas of developers whose primary interest is making as large profits as possible, not in providing good housing for as many people as possible.

**Mr. Acting Chairman:** Any questions from members of the committee?

**Mr. Hall:** I would like to ask one question. It's having to do with your comments on the second sheet. You're referring to the new ones created out of old with small rooms and illegal kitchenettes and bathrooms. What about minimum building standards bylaws and building permits and adherence to building codes? How does this happen that these facilities get there illegally, in your mind?

**Ms. Adams:** It's a very long and complicated story. It has to do with some lack of enforcement on the city's part. When the city has prosecuted some of these developments, the developer's been fined maybe \$100. That's just nothing compared to what they're able to make out of this. They consequently keep ignoring the stop work orders and the injunctions. It costs the city a great deal of money to continue these prosecutions.

There's also the problem of securing evidence. Once the building's been completed, the inspectors do not have the power to enter a completed building. The city's been asking the province for this power.

**Mr. Hall:** Are you saying that this is the normal practice or that this is the exception?

Are you saying the procedure you've just described to me is what normally goes on or is it unusual?

**Ms. Adams:** It has been going on in south Parkdale for the last three years.

**Mr. Campbell:** And in the Annex.

**Ms. Adams:** Yes, certainly in the Annex. It's just starting to increase in the Beaches and in the High Park area. It goes in cycles. The city does put on a spurt of activity and the developers sort of hide away. There are a number of things they can do. They can just take out the kitchenettes. They do that. They hide them. As soon as the inspectors are finished or they think they're finished, they put them back in.

**Mr. Hall:** Are they portables?

**Ms. Adams:** Yes. Even though the wiring is there and the taps are there for the plumbing, as long as they're not in use, the city can't prosecute.

**Mr. Hall:** I'm just trying to understand this. It's your suggestion then to the committee that this is more often the case than not the case? One of the areas that we've been concerned about is trying to find a forum where building code violations under the question of landlord and tenant protection can be adhered to. You're saying that under the present system they can't keep up with it or don't even come close. That's what I take out of what you said.

**Ms. Adams:** I'm talking about the particular problem of conversions of older housing stock.

**Mr. Hall:** I'm talking about building infractions. You're saying it's going on all over the place and that they can't keep up with it and they can't enforce it.

**Ms. Adams:** I'm not talking about enforcement of housing standards across the board.

**Mr. Hall:** You said that if the stop-work orders are disregarded then they just carry on, and they take things away whenever there is an inspection and put the portable back afterwards. So I wonder what techniques we can use to see that, indeed, building code violations, if they do occur, can be stopped.

**Ms. Adams:** I think one important thing is for the courts to be instructed to increase the fines.

**Mr. Warner:** You could cut off the rent, if it all came under one umbrella, as we were discussing before.

**Mr. Hall:** It's partly a matter of logistics and personnel and burden of overload in total.

**Mr. Warner:** This is what frightens me. You've got to deal with the city, the bylaws,

the property standards officers as well as at least rent review.

**Mr. Hall:** We've been doing this for a long time in a very large city, supervising building standards, David, and I just can't quite accept your mammoth construction of another heavily bureaucratic thing that would finally cover it all. I'm not so sure, I'm just groping to find out what the problem is right now.

**Mr. Makarchuk:** This was the problem brought out earlier, that there really aren't any building standards bylaws in Toronto for apartments. This was brought out in some of the other hearings, that the tenants really have a problem. If they go to City Hall there's nobody rooting for them. They do not have an adequate standard at this time. I think this is just a reflection of the lack of standards, that's all.

**Ms. Adams:** Actually, it's often not the building standards that are being violated, but the zoning bylaw. It's those enforcement officers who can't get in and determine that the units are too small and that there are improper facilities being provided.

**Mr. Hall:** Mr. Chairman, I'd like to ask our consultant to provide this committee with some information as to the building standards in Metro Toronto and the efficiency of same, and of policing zoning bylaws and building regulations, and the fines for enforcement of same.

**Ms. Adams:** Good. Thank you.

**Mr. Epp:** I just have one comment here, maybe to try to correct the record. You mentioned the case of Mr. Glen Hicks. I think that's the case that was reported in at least one newspaper in Toronto, and I think he did have an offer to move to another apartment but he didn't.

**Ms. Adams:** Someone just told me that today, and that was the first time I'd heard of it.

**Mr. Epp:** I think the paper reported that he did have an opportunity to move but chose not too.

**Ms. Adams:** I've been talking with people who live next door to him and they didn't say anything about this, and I read the reports in the Globe and the Star and they didn't say anything. This is the first time I've heard of that.

**Mr. Epp:** You go back and read about two or three days ago; there was something I recall.

**Ms. Adams:** Which paper?

**Mr. Epp:** I read all three of them. I'm not sure which one it was in.

**Ms. Adams:** Okay.

**Mr. Epp:** If you can't find it, give me a call and we'll find it for you.

**Mrs. Campbell:** I just have one comment. It seems to me that in this case we have several cases sort of wrapped together. First of all, the city is interested in not having bachelorettes of this kind. This would be the kind of case which probably would not come before this court or this tribunal, because it wouldn't really be a landlord and tenant matter. In that particular facet of it, it would be a matter of the city enforcing its own bylaws. That's one aspect of it.

The problem with the bachelorettes is that, for example, under the jurisdiction of the city, you can rough in all the plumbing you like, but unless you have it attached, unless you have it functioning, there is nothing that the plumbing inspectors can really do other than to alert themselves to go back later. Of course, we did have some problems with the plumbing inspections for Toronto, which didn't help the matter.

**Mr. Warner:** One or two?

**Mrs. Campbell:** So it seems to me that if this is to be regarded as a landlord and tenant matter, and if we are to look at it as a matter for review or whatever as far as the tribunal we set up is concerned, I can only say I think it is not helpful to the tenants in this kind of a situation. Because I suspect that the city is going to be trying desperately to get rid of them altogether, or to have them converted into some better living accommodation. I'm not sure, but I do know they're now employing the injunction procedures.

The city's position is that it doesn't want them, and believe me if you go into one, you don't want them either—they're intolerable living in, I should think. But if the city wants to get rid of them, then that is not really a matter which would come before this tribunal unless we're going to put everything under it. I have concerns about that initially, because I think it would be overweighted for a while. Do you understand what I'm saying? It's not the best situation for the city, because the city doesn't want either landlords or tenants.

**Ms. Adams:** But the effect on the availability of affordable housing stock is pretty bad, particularly in an area like south Parkdale—

**Mrs. Campbell:** I'm aware of that.

**Ms. Adams:** Yes—because of the huge profit incentive. We thought that getting them covered under rent review would be one way of covering that gap and discouraging

the developers, and getting a form of accountability.

**Mrs. Campbell:** It seems to me if you do that you're inviting tenants to be the guinea pigs to get themselves out of any housing at all. Anyway that's a comment I would like you to think about. I think that kind of evidence is exactly what the city wants to get rid of the bachelorettes.

**Mr. Acting Chairman:** Thank you very much Ms. Adams. The next deputation is from 1646-48 Bathurst Street Tenants' Association, Gail Silverberg. We have 11 groups left to make representations to the committee, so would the members of the committee try to restrict their involvement to questions of the witnesses?

**Mrs. Campbell:** You haven't asked that for a long time.

**Mr. Acting Chairman:** No. I know. I haven't heard a question yet. They've been comments—very good comments, but I hope we can reserve them for our deliberations next Wednesday. Please try to stick to questions only.

**Ms. Silverberg:** I believe the committees should have a copy of the brief. I hope you do. I'll try to go through it as quickly as possible.

Our tenant association presently has a membership of 18 units out of a total of 36 units. We are a member group of the Federation of Metro Tenants' Associations and request that this submission be considered as an addition to their brief presented on April 19, 1978.

The following pages outline our association's response to the green paper on alternatives for the future of tenant protection in Ontario. We have combined an analysis of this paper and our personal involvement as tenants in the rent review process. The detailed analysis and suggested alternatives by the federation are agreed upon and accepted in total by our association.

Toronto has one of the highest percentages of rental households in Ontario. Our tenant association is in ward one of the borough of York—the ward with the highest tenant occupancy. From as early as March 1, 1976, at least 25 out of 36 units of 1646 and 1648 Bathurst Street have been involved in the rent review process. Our experience over the past two and a half years has indicated that the present system of rent review has provided the tenant with the barest, minimal protection.

Affordable and decent housing unfortunately does not exist. Proper protection and rights for tenants must be developed and imple-

mented. We are implying here that decent and affordable housing is a fundamental right. An examination of the present housing situation in this province reveals that uniform controls must be enforced for rented premises in order for decent and affordable housing to become a reality.

The green paper appears to favour ownership rather than rental of housing and presents housing as an industry whose product is based proportionately on the rate of profit return to the private sector. Housing is not a business; it is a necessity, and tenants are no longer willing to suffer indignities for their most basic needs.

[6:00]

The existing system of rent controls as defined by the mandate of the Residential Premises Rent Review Act should not be relaxed or eliminated. This act and the Landlord and Tenant Act should be improved, strengthened and enforced to meet the existing concerns of housing in this province.

The administration procedures of the present system of rent review involve considerable delays and redundant hearings with the possibility of overlapping of hearings should more than one set of increases occur simultaneously in a building, as in our case.

Our first notice of increase was received on March 1, 1976, accompanied by a notice that our buildings had been sold. Our notice of increase was dated February 26, 1976 to be effective May 1, 1976. The rent review officer rendered his decision on April 6, 1976, extending the effective date of rent increase to June 1.

On April 15 we filed our appeals with the rent review board and our appeal was heard on August 17 and September 28. At that time the board received submissions from us that proper notice was not received and therefore the board lacked jurisdiction to hear the landlord's application, and from the landlord, that since the landlord had not received copies of the notices of appeal, as required by section 13(2) of the Residential Premises Rent Review Act, our appeal should be dismissed. The board reserved its decision at that time.

Six months later on March 31, 1976, a little over a year from the receipt of our first notice of increase, the rent review board delivered its decision holding that our appeal was invalid by reason of our failure to comply with section 13 of the Residential Premises Rent Review Act.

In its reasons, which were attached to the decision, the board explained that if it had had jurisdiction, it would have found as a fact that we did not receive a notice of rent



increase as required by the Landlord and Tenant Act.

In November 1977 an application for judicial review was made to the Supreme Court on behalf of 17 of the original 25 units involved with the first increase, pursuant to the Judicial Review Procedures Act, 1971, in relation to the statutory power of the rent review officer's order of April 6, 1976.

The rent review officer had no jurisdiction to hold a hearing on April 6. Our landlord failed to provide proper notice of increase and justification for the increase as required by section 115 of the Landlord and Tenant Act and section 6 of the Residential Premises Rent Review Act. Failure to comply with these sections deprived the rent review officer of jurisdiction to hold a hearing.

To date a court date has not as yet been set for the judicial review and to complicate matters, we are now involved in a third set of rent increases. This synopsis should provide an idea of the complications and delays that exist with the present system of rent review.

Our experience in the rent review process has shown that the process is too long and too complicated for the average tenant and small landlords to fully understand. The majority of time spent during hearings involved disputes over unrealistic projected figures and very lengthy financial statements.

We have also had difficulty in accessing information during the full process from the initial hearing by a rent review officer to the appeal level. Furthermore, rent review has severely hindered our tenant-landlord relationship and in some cases has destroyed a tenant's credibility with our landlord.

Many tenants have moved due to harassment by the landlord resulting from misunderstanding on the landlord's part of the purpose and intent of controlled rents and a system to enforce them. The tenant turnover rate in our buildings since March 1, 1976, is about 80 per cent.

Higher rents have not brought an increase in services which we, as rent-paying citizens, have a right to. Maintenance has been the most minimal and at times simply negligent. Requests for needed repairs to locks and outside lighting, which are needed to improve the security and safety of our homes and possessions, have not been attended to.

The landlord refuses to acknowledge these requests on the grounds that "she is losing money, the rents are not high enough" and that her mortgage payments are too high and we will have to suffer until the rents are raised.

Our rents have increased substantially over the last two and a half years. Our first increase was 10 per cent and our second increase was 14 per cent. We have endured some of the highest percentage rental increases in Metropolitan Toronto since rent review came into effect.

Our experience has proved that tenants are not protected under the present system when a building passes from landlord to landlord. New mortgages result in higher and higher interest rates and these financial costs become a burden to the tenant.

We should also point out here that we live in a borough that until February of this year had no standard protection with respect to municipal legislation for maintenance and repair of rental housing. On February 13, 1978 the residential property maintenance and occupancy standards bylaw was passed by York Council. The system involved to obtain an inspection and approval for repairs is also lengthy and complicated.

The proposals of the Federation of Metro Tenants' Associations for tenant protection as outlined in part C of their submission are fully accepted and supported. The formation of a residential tenancies commission to act as a housing tribunal to deal with all aspects of landlord-tenant relations and their suggested amendments to the Landlord and Tenant Act and the Residential Premises Rent Review Act are viable proposals.

A system of rent control is needed in this province. The present system should be studied and revised in order to make decent and affordable housing accommodation a reality.

**Mr. Acting Chairman:** Thank you very much. As you know, a number of the committee members have had to leave. We all do have a copy of your brief and, your comments are on the transcript. We appreciate the time you have taken. Any questions?

**Mr. Warner:** Earlier I asked the question if it would be possible for the Attorney General's office to contact the Ombudsman with respect to what kinds of cases they have had. What is outlined here is that another circumstance had gone beyond that to the Ombudsman. I wondered if the Ombudsman's office could give us some idea of what kinds of cases they dealt with, how they resolved them and if they had any recommendations. I wondered if that had been done.

**Mr. Acting Chairman:** I don't know. I don't recall it myself. Maybe Mr. McAuley will be coming back.

**Mr. Warner:** Would you mind at some point asking about it? It was a very good brief.

**Mr. Acting Chairman:** Excuse me, Ms. Silverberg, we have another question.

**Mr. Sterling:** Unfortunately, I haven't had an opportunity to read your brief yet. I recognize many of the problems you have stated. I was just wondering, in your brief do you outline any methods you could recommend which may simplify the procedures?

**Ms. Silverberg:** We were going to do that. Because the submission is in addition to the brief of the Federation of Metro Tenants' Association, to which we are affiliated, rather than repeat what they have outlined, we agree in total with all their alternatives and suggested amendments. I would request that you read this in conjunction with their brief.

**Mr. Acting Chairman:** Thank you again very much. Next is Edwin Watson, Metro children's aid society. Mr. Watson, you are turned out delightfully.

**Ms. A. Taylor:** I am not Edwin Watson, executive director of the children's aid society. I am Ann Taylor, a director of CASMT and chairman of the social issues committee of the board which prepared this brief in response to the green paper.

Because of your time problem, I have made some cuts in our brief and I will just read selected bits and skip through. The Children's Aid Society of Metropolitan Toronto serves children, families and communities in Metro Toronto. We have ample exposure to and involvement in most of Metro's communities. This enables us to witness the effects of housing on children and families.

As the major community agency that is responsible for the administration of the Child Welfare Act, we are very concerned with prevention. One of the purposes of CAS, stipulated in the Child Welfare Act, is the prevention of circumstances requiring the protection of children.

Many of the children seen by CAS come into care because of environmental reasons. Environmental reasons rank sixth out of the 14 reasons for admission to care. Housing is a major factor here and is often cited as a contributing or secondary reason for a child coming into CAS care. Hence, our concern for prevention, a concern set as a primary priority of the children's services division of the Ministry of Community and Social Services. This includes the adequacy of accommodation available to those we serve. We feel that adequate and affordable housing

accomplishes a great deal toward the prevention of problems within families.

Our interest in the green paper by the Ministry of Consumer and Commercial Relations, entitled Policy Options for Continuing Tenant Protection, arises from our commitment to prevention. If we could turn to table one here, this breaks down our clientele in terms of the types of accommodation they have. If you look at the bottom column, the totals, you will see that only 12.7 per cent of our clients own their own homes, 46.5 per cent of our clients live in private rental accommodation and 32 per cent in OHC subsidized housing. Furthermore, a majority of our clients have low incomes, either from social assistance or low wages. For this reason, many fall into the large minority of Ontario's population considered by the green paper to experience affordability problems, whether they live in private rental or OHC accommodation.

Some must assign well over half of their incomes to pay the rent. This comes from the Parkdale Community Legal Services, which has collected statistics in its community and has found that many pay well in excess of half of their incomes in rent. Therefore, concern for the well-being of these families and their continued access to adequate and affordable housing is the basis of this response.

We made up a table of two hypothetical families that are very typical of the families that we serve. They are families living on family benefits allowance. The first family is a single mother with one child. She is allowed \$340 a month, of which the maximum shelter allowance is \$130. If you look across to the extreme right hand side, in this case, you will see that after she has paid the rent, she has, if she has a one-bedroom apartment, only \$26.62 a week left to provide food and everything else for herself and her child.

**Mr. Chairman:** If I may just interrupt for a moment, perhaps it is just me, but if I have the table I can't find it.

**Ms. A. Taylor:** I am on page four. I'm sorry. Continuing on the bottom of page four, if you take the case of a single mother who has two children, she is allowed \$386 a month on family benefits allowance. Of this, \$135 is allowed for rent. If she lives in a one-bedroom apartment, this single mother and two children, she has at her disposal \$38.12 a week for food and everything else after paying the rent. If she is in a two-bedroom apartment she has only \$29.25 a week for food and all other expenses. This



table reveals the extent of the poverty that family benefits families face.

A two-person family is left with under \$27 a week for food, transportation, clothing, health and personal items, and a three-person family has less than \$39 per week after the rent is paid. Since the portion of the family's income that is designated for rent is insufficient, the balance must come out of the family's budget for food, clothing and other needs. What is most disturbing about the poverty situation faced by low-income families as a result of high rents is that this is occurring during a time of rent control in Ontario.

The Children's Aid Society of Metropolitan Toronto realizes that a sufficient supply of adequate, affordable rental housing is crucial for low-income families. We urge the province of Ontario to expand its commitment in this area.

Interjections.

**Mr. Chairman:** You just have to learn to ignore that.

**Ms. A. Taylor:** I'm on page eight now. The need for long-term planning by the province of Ontario to ensure the increased and sufficient supply of adequate, affordable housing is evident. We, therefore, urge the province to seriously investigate ways of improving housing supplies, especially rental accommodation for low income families. These families are constantly and acutely at the mercy of fluctuations in the economy: they need protected and assisted housing.

[6:15]

In order to answer this need, CAS urges the province of Ontario to invest in and encourage the building of nonprofit housing such as private and city nonprofit, private and public co-operative housing and OHC. Low-cost housing starts have decreased; almost 80 per cent of all housing starts are high-cost accommodation. Older, previously low-rental buildings are being renovated into luxury accommodation and developers are investing in owner as opposed to rental housing. All of this has greatly decreased the supply of low-cost accommodation.

The private market is currently incapable of supplying the housing needed; it is important that the province step in before a crisis is reached. Since the public sector's offer of assistance to developers—a developer may receive a maximum subsidy of \$7,700 per unit from the federal and provincial governments—we feel a precedent has been set that should be available to the low-cost housing market.

CAS also believes that tenant rights need to be protected. Therefore, we support the Landlord and Tenant Act and urge the province of Ontario to not dilute the legislation but rather to expand it, particularly in the area of security of tenure. In order for the protection of tenant rights to be a reality, there must exist both appropriate and strong legislation and an accessible structure for dispute resolution.

The green paper acknowledges the current problems with tenancy disputes going through the courts: the current system is cumbersome, inaccessible, expensive, slow, lacks investigative powers, and is unable to act quickly to redress violations. What is needed is a residential court or tribunal structure, based on its own provincial codified residential tenancy law and with the power to adjudicate major disputes in matters of conditions of tenancy. This would require major legislative changes that are felt to be worthwhile since tenancy and rental disputes would be removed from the courts.

The tribunals could be established province-wide, thereby providing services in areas currently without municipal advisory boards. The tribunal would be responsible for providing information, advice, some mediation and adjudication. It would have investigative powers of its own and the authority to ensure compliance with both the legislation and its own decisions. Appeals could be taken to either a higher provincial tribunal or to the courts. Such a system would eliminate the problems of a court system that is ineffective in resolving tenancy disputes because of a lack of necessary resources.

It has been the experience of the Children's Aid Society of Metropolitan Toronto that unaffordable and inadequate housing places severe stress on families and communities. We share with the province of Ontario a commitment to the prevention of child, family and community problems. We found that preventive efforts profit everybody in the long run: (a) Families remain healthy and strong; (b) children do not come into CAS care; (c) the community becomes a safe environment for all; and (d) the province and human service agencies do not bear the burden of expensive crisis interventions. For example, the average cost of one child in CAS care is \$7,500 per year.

We, therefore, urge the province of Ontario to place strong emphasis on the rental housing needs of low-income families and to take the following actions: (a) To ensure access to a sufficient supply of adequate and affordable rental housing; (b) to expand the supply of non-profit housing; (c) to protect



access to housing by appropriate and strong tenant rights legislation; and (d) to establish a residential rental tribunal structure.

Sufficient, adequate and affordable housing is a major preventive measure. It is only through prevention efforts that the human and social costs to families and the community caused by family breakdown can be alleviated. Respectfully submitted. Thank you.

**Mr. Chairman:** Thank you very much. We are so sorry that we were so pressed for time. That is a very thoughtful piece of work. Are there any questions?

**Mr. Makarchuk:** What is the CAS budget?

**Ms. A. Taylor:** I think annually it is around \$22 million to \$23 million.

**Mr. Makarchuk:** Did you hear the brief that was presented by the Toronto Redevelopment Advisory Council earlier today?

**Ms. A. Taylor:** No.

**Mr. Makarchuk:** It was totally inimical to what you say.

**Ms. A. Taylor:** No.

**Mr. Makarchuk:** The president of Noranda doesn't think you have got a problem.

**Ms. A. Taylor:** Our families do and CAS does.

**Mrs. Campbell:** It seems to me that this brief indicates an interest in the building-up process.

**Mr. Chairman:** Thank you, Ms. Taylor, very much.

**Mr. Breithaupt:** I want to ask a question in respect to another brief that we have received. I don't know if anyone will speak to it, but it's from the staff association of the CAS. I will quote part of a paragraph on the cover page. "We feel that the agency has not adequately stressed the urgency of continued rent controls and other tenants' rights issues. Therefore, we felt obligated to submit our own brief."

Might I ask if staff representation was included at all in the brief which you have presented on behalf of Mr. Watson or are we to treat these as two quite separate documents as part of the grand total that we are acquiring?

**Ms. A. Taylor:** No, the social issues committee of the board, of which I am chairman, and the staff association have worked very hard together through most of the preparation of these briefs. The board of the agency was interested in presenting long-term measures of a permanent nature and wanted to address the question of increased nonprofit housing and strengthened tribunals to protect tenant rights.

The staff association wanted to mention the more short-term option of continuing rent controls. There is no disagreement whatsoever in principle over the preventive aspect of addressing ourselves as an agency to adequate and affordable housing, but there was a difference in terms of looking at mechanisms. The board opted for a long-range view. I think the staff association doesn't disagree with what the board said but it wanted to mention rent controls. We are quite totally in agreement in principle. In fact, I was talking to the president of the staff association today about this. I am glad you brought it up.

**Mr. Chairman:** Thanks again very much. Mr. Oakes of the regional municipality of York.

**Mr. Oakes:** Mr. Chairman, I don't know if you have our brief. We have additional copies here if you require them. My name is Edward Oakes. I have with me Michael Wood. I represent the council of the regional municipality of York. At its meeting on May 11 this year, council passed a resolution to the effect that the operation of the landlord and tenant advisory bureau should be a responsibility of the provincial government rather than the municipalities of the province. A copy of the resolution is appended to the brief.

You will note that an amendment was submitted to the resolution to the effect that if the province was not going to take over full responsibility for the operation of the bureau, it should at least fund the operation of it by municipalities in whole or in part. That amendment was defeated not, I hasten to assure you, because the council did not want the money but rather because the council did not want to do anything that might detract from the force of its recommendation, which is that the province should take over responsibility for the operation of these bureaus.

In support of the council's opinion, I would urge four grounds. First, the operation of the landlord and tenant advisory bureau by the provincial government would ensure that the service is provided on the same basis across the whole province. As you know, under the Landlord and Tenant Act, the functions of a landlord and tenant advisory bureau are four in number: To advise landlords and tenants; to mediate disputes between landlords and tenants; to disseminate information; and to investigate complaints of conduct in contravention of provincial legislation governing tenancies.

At the bottom of page 23 of the policy option paper that was put out by the Ministry

of Consumer and Commercial Relations it is stated that the advisory bureau as now operated by municipalities vary widely in the extent of the services that they offer. This observation I feel is quite true. All of the bureaus will be giving advice. Some may mediate disputes. Few, if any, disseminate information or investigate complaints of contraventions of the legislation.

The reasons for the lack of complete coverage are probably financial and secondly, many municipalities—especially the smaller ones—would lack access to the specialized skills required to investigate contraventions of legislation and to launch prosecutions. Many municipalities probably also feel that these are properly matters that should be undertaken by the provincial government.

In summary, therefore, the service would be provided more uniformly and more completely if it were operated across the whole province by one agency that had the financial resources and the jurisdiction to enable it to do a proper job.

Secondly, operation of the bureau by the provincial government would ensure that the service is available to all landlords and tenants across the province. Under the existing legislation the jurisdiction to set up a landlord and tenant advisory bureau is permissive, it is not mandatory.

Some municipalities have taken advantage of the legislation, some have not. For example, in Metropolitan Toronto a bureau was established, if my recollection is correct, in 1969—almost immediately after the legislation was enacted. In York, we didn't establish one until this year. We lie immediately north of Metropolitan Toronto—our municipality extends from Steeles Avenue to Lake Simcoe. Some of our people, for those eight or nine years, were trying to get the service from the Metropolitan Toronto bureau, which, of course, would not provide it to them once it learned where they lived. And they were going elsewhere; some of them were coming to our office. They were going to any place to try to get the service provided.

Now that we have it, we are getting inquiries from, say, Bradford, to the north of us, because they don't have any. Bradford is not in our area, we are technically not supposed to deal with complaints or requests that come from Bradford. We do it more or less informally. But there is no uniformity across the province because the legislation is not mandatory; it is only permissive.

On that ground if the province assumed responsibility for the establishment and operation of these bureaus, the service would be

available to all who needed it, irrespective of the municipality in which they reside.

Our third ground is that the operation of the service by the provincial government would ensure continuity. Because the legislation is permissive, if a municipality establishes a bureau there is nothing that says it has to keep it going.

The city of Guelph, for example, closed its bureau in 1975 after having operated it for approximately two and a half years. The regional municipality of Durham, which borders York on the east, gave serious consideration to dissolving its bureau when it was setting up its 1978 budget in December 1977 and January 1978. Durham ultimately decided that it would continue the operation of the bureau for at least another year. But there was nothing in the legislation which required it to do so.

In summary, therefore, the operation of the bureau by the provincial government would ensure continuity of the service; again, regardless of the municipality in which it was located.

Our fourth submission is that the administration of landlord and tenant advisory bureaus ought to be joined with the administration of the Residential Premises Rent Review Act, or any successor thereto, under one ministry, thus ensuring that all aspects of the landlord and tenant relationship are dealt with by the same agency.

Rent, as you will be aware, is simply one aspect of the relationship and there isn't, as far as we can see, any logic in having people go to one agency if they have a complaint regarding a rent increase, but having to go to another agency if they have a complaint, or if they want information, with regard to any other aspect of the landlord and tenant relationship.

[6:30]

We have one rent review office in York. It is located in Richmond Hill and operated by the Ministry of Consumer and Commercial Relations. We have found that approximately 28 per cent of the inquiries that come to our office are referred to us by the rent review office. In other words, that proportion of our total calls is going to the rent review office first, then they have to be shunted over to us because their inquiry doesn't fall within the jurisdiction of that office.

We attempted this year to try to have the two operations consolidated in York under the rent review office. The Honourable Larry Grossman wrote to me and said that the idea had merit and that he was instructing his staff to see if a suitable arrangement could be



worked out. Unfortunately, we weren't able to work out a suitable arrangement. Our council wanted the ministry to take over the operation and operate it on behalf of York with the municipality paying the costs of the operation.

My own feeling is that the Ministry of Consumer and Commercial Relations would have been amenable to that suggestion, but I think the Attorney General's ministry, which is responsible for the Landlord and Tenant Act felt leery about becoming involved in an area which was under municipal jurisdiction. In any event, we weren't able to work out a suitable arrangement.

As far as the costs are concerned, you might be interested to know that in the draft agreement the ministry sent to me they wanted \$1,400 a month to operate the service for York. In addition to that, York would have had to pay telephone charges and provide the stationery. The ministry was going to provide the typewriters.

**Mr. Warner:** That was generous of them.

**Mr. Oakes:** We do feel there should be one bureau or one agency. The ministry was acting in its own self-interest. The Ministry of Consumer and Commercial Relations has a rent review office in Richmond Hill. The ministry staff told me, quite frankly, they could not justify the space or the staff on the basis of the rent review inquiries that the office was handling alone. I am not suggesting they had excessive staff. They have only two. I don't think you could operate with less than two, there has to be one backup person or one person to—

**Mrs. Campbell:** I would think so.

**Mr. Oakes:** There isn't enough work for even two to do with regard to rent review alone. I don't know this first-hand, so I can't say it authoritatively, but I was told that approximately 90 per cent of the work that came to them or the inquiries that came to them dealt with the landlord and tenant field, not the rent review field. I think that ministry would have been quite happy to have the municipality paying a share of the rent and the staff salaries. It was really the Attorney General's ministry which raised the jurisdictional matter and said: "We can't become involved in something that is under the jurisdiction of municipalities under the act."

It is unfortunate we weren't able to work anything out, because the public is the loser. The public now has the matter fragmented between at least two agencies, whereas it would be much more convenient if it were consolidated in one agency.

I hope I haven't gone over the 10 minutes. Thank you very much.

**Mr. Williams:** Mr. Oakes, I don't argue with the recommendations made by the council. I just wondered what prompted the council to bring forward this motion at this time, when I see that your particular municipality has not yet had the benefit of the experience of operating the program. I gather from the material filed that this was dealt with at the council meeting of May 11 and that your program went into operation on May 15.

**Mr. Oakes:** Yes, our program has just started. They considered this matter before establishing the program. The matter was considered for about a year, I would say. One of the things that made us tardy was the attempt, before we started it up, to try to negotiate with the ministry to have them do it on our behalf at municipal expense. Those negotiations went on over several months.

**Mr. Williams:** Your response and your coming before this committee was not born out of great concerns being expressed by the residents of your municipality about rent review and landlord and tenant matters, but over this matter of responsibility for operating a tenant advisory bureau. Is that correct?

**Mr. Oakes:** I'm afraid I don't understand you.

**Mr. Williams:** I don't understand why the council had taken this position before it had even started its own operation. I think you have explained part of it, that you have been trying to get the province to assume the responsibility for some period of time and you couldn't, so you moved ahead in your own capacity.

**Mr. Oakes:** Yes. Our council had before it voluminous reports and information that the rent advisory office sent us showing the number of landlord and tenant matters they dealt with on a daily basis. Having regard to the volume of work they were handling and the fact that they had the listings in the telephone directory, and that people in the region were accustomed to going there, our council felt that the service would be best administered from that location, that the people were used to it and would get the best service through going there.

As I said, we spent several months trying to work out an arrangement with the ministries, but we weren't able to do so. It was only when it became apparent we were not going to do so that our council said, "As a second best, we'll establish our own." We still feel it should not be fragmented in the way in which it is.



**Mr. Williams:** Did your council address itself to any of the other considerations in the green paper?

**Mr. Oakes:** No, they gave me no further instructions.

**Mr. Sterling:** Mr. Oakes, your arguments sound very true and logical and good.

**Mr. Oakes:** That's usually the kiss of death.

**Mr. Sterling:** It is the kiss of death in my case. I have a great reluctance to support this kind of thing because, frankly, in the riding that I represent and in the riding that my colleague sitting beside me, Mr. Belanger, represents, we don't have a great number of landlord and tenant problems. My question to you basically relates to the management of property. It deals with property rights. Your municipality gets paid property taxes and that's one of your major methods of raising revenue. How do I explain to my constituents that we are raising their taxes in order to support this kind of program?

**Mr. Oakes:** I don't know. Maybe you don't have very many bank robberies in your municipality, but you support a police force and probably a provincial police force too.

**Mr. Sterling:** That isn't related to property rights.

**Mr. Oakes:** I don't know that this is related entirely to property either, with great respect. I think a person's living accommodation and a person's right to fair accommodation transcends property rights. That's my own personal opinion.

**Mr. Wood** has pointed out something else to me on that: the fact that it would be operated by the province doesn't mean that there would necessarily have to be an office in every municipality. They could operate it the same way they operate rent review, with offices in centres which would cover a number of municipalities; the cost to any one municipality, if it was spread out on that basis, would likely be less than if it operated its own bureau.

As it is now, your people are simply doing without the service. Perhaps a great many of them don't need it, but I'm sure there must be some who would take advantage of it if it was there, who do need it and they're not getting it at all. They weren't getting it in our municipality, not on a proper basis, until we established the bureau.

**Mr. Sterling:** I differ with your opinion that probably there are a minimum number of people who would need it. I just want to express the thought that there is another area outside of this large urban area in southern Ontario, and a lot of the programs and briefs

that I've heard relate to a local problem. I just want to point out to the committee that there is a different set of standards in a different area of this province.

**Mr. Oakes:** With respect, that is quite true, but it is also true on a smaller scale at the municipal level. For example, our regional municipality is composed of nine area municipalities. Some of them are densely populated, such as Markham, Vaughan and Richmond Hill. Others, like King, are populated only by millionaires.

**Mr. Makarchuk:** They don't have any rent problems, do they?

**Mr. Oakes:** I don't think they have any problems at all in King, they have horses. For every 10 inquiries we get from Markham, Vaughan and Richmond Hill, we may get one from King. Nevertheless, by having it at the municipal level the taxpayers of King are paying for the operation of the service. They haven't complained so far. They are prepared to accept some of these charges for the general good. I would think the people of your municipality would be too if they were given the choice.

**Mr. Chairman:** Mr. Peter Cartwright. We have Mr. Cartwright's brief.

**Mr. Cartwright:** My name is Peter Cartwright and my interest is as a landlord. I own two eightplexes in the city of Guelph and one duplex in Milton. I live in Milton.

I haven't made this brief very long. I've just touched on the main things I feel have affected the situation.

After reading the government's green paper on policy options for continuing tenant protection, I have found that it sums up quite well the present financial conditions of the landlords in Ontario. I do, however, have the impression from the paper, people appearing before the committee and the news media that there is some misunderstanding of how a landlord operates and how rental housing in general operates.

In chapter one of the green paper, it points out that the federal government discontinued tax write-off of residential rental losses against other income. It also mentioned the Foreign Investment Review Act. However, capital gains tax introduced in the early 1970s was not mentioned as an institutional change inhibiting supply. Capital gains tax, when joined by land speculation tax in April of 1974, stopped the movement of landlords selling smaller buildings, removing their cash and reinvesting in newer, larger buildings.

In my view, capital gains and land speculation taxes tended to change the landlords'

outlook on rent increases. Rental buildings return money to the landlord in two ways. First, there is the income from the monthly rents; and secondly there is the return on investment from the capital gain on the value of the building. If the government is going to take a large part of the capital appreciation of the building in taxes, it is undoubtedly going to exert pressure for an increase in rents to have a building give the same return. Therefore, I feel these tax changes mentioned had a considerable effect on the supply, and increases in cost, of rental housing.

I believe it is the present rental housing that will supply the investment for new rental accommodation. By taking the profit out of rental housing with the present controls Ontario is losing the large percentage of that profit that would have been reinvested by present landlords.

Page 14 of the green paper points out that in 1975 vacancy rates were at low levels and would have fallen farther had it not been for the shift of households from rental to ownership. I would like to point out that if controls were lifted completely, the vacancy rate would probably rise a significant amount, simply from the fact of the rising market rents which would make home ownership more appealing for those who could afford it.

[6:45]

The paper outlines the rent review operation quite well. I feel it is important to note that during this program landlords have been operating a no-profit operation. This elimination of profit in rent review is, in my opinion, going to have some serious effects in small multiple-unit or single-family rental housing. When rents are below market value the property value is also kept down. When the point is reached where a prospective home owner can purchase a duplex or triplex-converted house at a lower market value than similar single-family housing, then there is a serious problem. I have experienced this with the duplex I have owned for nine years. When it was put on the market 10 months ago I could only get very low offers from investors, \$3,000 to \$4,000 below similar single-family housing in the area. I finally received a couple of offers of comparable prices from people who planned to live in one apartment and rent the other, then eventually take over the whole house.

The point is that if rents continue to be held down in this type of housing, then eventually those rental units will start diminishing. I would like to add there is a substantial amount of this type of rental unit

throughout Ontario. The end result will be a loss to both tenants and taxpayers, who will have to foot the bill on large subsidies for new rental housing.

With regard to tenancy law, evictions for non-payment of rent have to be carried out as quickly as possible. If rent is lost through non-payment it is a cost to the building and is eventually borne by the other tenants.

Another area I have found costly is not being able to hold damage deposits. Most tenants are good and do not damage property; but again, the minority that damage the property simply make the cost of rental housing higher. The most practical and efficient way to collect for damage to an apartment is definitely through a security deposit.

My choice of options are: One, terminate rent review. Anything short of termination will not do much to improve the investors' confidence in the rental market of Ontario. I do, however, feel that some sort of mechanism is needed to gradually phase in the end of controls. The present law limits increases to every 12 months. If termination of controls were allowed only on the same date or months as the last rent increase, this would spread the actual abrupt end of controls over a 12-month period. It would also stop certain landlords from simply letting increases go past the 12-month period to take advantage of the termination of rent review.

Two, establish a board or tribunal with broad adjudication powers to resolve tenancy disputes.

Three, implement a rental housing allowance for eligible families with children and for senior citizens, to reduce the cost of rental housing.

The only thing I would like to mention is that as far as the speculation tax went, when it was first introduced it was much higher than it is now and there were no exemptions. For the time when controls were really high, this made landlords look for rents instead of capital appreciation. Now it's been changed a bit, with a 10-year exemption period, so I think with the removal of controls, in that area anyway there won't be as much pressure as there was before they were put on.

**Mr. Chairman:** Are there any questions? Thank you very much.

**Mr. Robinson:** I believe we all have your brief. I understand you are not reading but you are going to highlight it.

**Mr. J. Robinson:** You are quite correct.

**Mr. Chairman,** and members of the committee, one of the things that I hate most is



having somebody read me something I can read myself. I'm not going to do that.

Very briefly, I'm a landlord in the Annex area. I own nine rooming houses and one small apartment building; three-storey brick houses. I have almost 100 tenants in those houses and I'm very concerned about some of the special problems that roominghouses have been encountering in recent years. I've tried to outline some of those problems in this brief.

Statistics show that almost half the city's roominghouses have gone out of business in the past three years, which means that if one feels there is a need for roominghouses in the city that need is far greater at this point than that for any other form of rental housing.

I find myself in a situation where I am working full-time, five nights a week, and spending almost my entire income to stay in business. Many of my competitors have already gone bankrupt.

I would ask you to have a look at this. I suspect you haven't heard an awful lot about the roominghouse industry at these meetings and I've given a great deal of thought to this paper. I'm sorry I'm so late I can't talk to you more about it.

**Mr. Chairman:** We're sorry. In spite of the fact we've had eight weeks we really did get rushed for time, particularly the last two Wednesdays. Unfortunately, you're quite right, we've not had much representation from the group you represent. We will read it. Are there any questions?

**Mr. Breithaupt:** Yes. There were comments earlier on by a lady who was talking about the bachelorette group and some of the problems of lack of enforcement of bylaws, or rather the avoidance of such orders as are given, leading, of course, to continuing problems or to apparently minor fines if these breaches are discovered; being in the business, how do you feel the enforcement of city bylaws is? Is it adequate? First of all, are the bylaws adequate; secondly, is the enforcement adequate; and thirdly, would the fines be meaningful if the bylaws were breached?

**Mr. J. Robinson:** The fines tend to be very low, initially. I don't know how much bigger they get if you go back again and again. Generally, on a first offence, there is no fine at all. If you're back again you're looking at \$25. It may go up beyond that.

**Mr. Breithaupt:** For what kind of an offence?

**Mr. J. Robinson:** Not having a fire balcony in place as quickly as it should have been,

for example; that kind of an offence. Which is a fairly serious offence, it's not just a matter of painting the trim.

The bachelorette situation is a little different than other roominghouses with respect to bylaws, because the people who turned houses into bachelorettes did so with the knowledge that what they were doing was illegal; whereas the problem that hit many roominghouses is that they were operating in a way that they felt was legal and they were suddenly hit with a great wave of improvements to make all at once.

**Mr. Makarchuk:** In your brief you say the major problem is the matter of evicting tenants who are non-payment or lousy tenants, or just maliciously destructive. What procedure would you follow if there is a non-payment of rent, assuming they're on a weekly basis? I presume that your tenants are.

**Mr. J. Robinson:** No. One of the first things I did to try to solve that problem was to go to monthly rent and charge two months in advance; that helped.

**Mr. Makarchuk:** That helped, I see. So is that a problem, then, the eviction for non-payment? Assuming the new system, is that still a problem right now?

**Mr. J. Robinson:** It's not as much of a problem, because now I have a one-month cushion, which means that if I issue a notice almost immediately after the first of the month I've got a one-month cushion in which time, if I'm lucky, I might get through the court. Even so, I'm going to lose some money. It does create special problems for particular kinds of tenants; for example those on welfare, because they can't pay a first and last month in advance. The welfare won't give them that money, so many landlords won't rent to them anymore because they're completely at risk.

**Mr. Makarchuk:** How about the people who are destructive in the apartments? What do you do?

**Mr. J. Robinson:** There's not much you can do in a case like that.

**Mr. Makarchuk:** Right now.

**Mr. J. Robinson:** That's right. I've outlined several examples and some of them are really quite horrendous. There's just no way to force someone to get out, or even to stop causing damage; and I know of cases much worse than any that I've run into.

**Mr. Makarchuk:** Assuming you had the right to force them out, or you had a chance to evict them, what would you do? Give them a week's notice, a day's notice, two day's notice; or if they create damages you have



the right to throw them out the following day?

**Mr. Chairman:** The brief does speak to that, that is in the brief.

**Mr. J. Robinson:** I think it's fair that there be some kind of an adjudicating body. Clearly a landlord can't simply decide, "That's it. You're out," with no kind of procedure at all. I don't believe in that, but I think it should be, for certain kinds of offences, extremely fast—48 hours, for example. It seems to me that in cases like that the tenants themselves are given notice and if the landlord provides clear evidence that that kind of behaviour has gone on, then tenants should know that the result is that you leave at once.

**Mr. Chairman:** Mr. Robinson, thank you very much. Mrs. Jeckel.

**Mrs. Jeckel:** Ladies and gentlemen, I'd like to thank you for working overtime because if I wouldn't have come here at the last moment you could be going wherever you have to go. I found out very late that I had a chance to come here and I just scribbled down a few notes, so I didn't present a proper brief. I have been listening to the other people and found that many of the problems I have have already been touched on. I don't want to repeat myself over and over. Sorry, I'm nervous. I'm not a public speaker.

**Mrs. Campbell:** Don't be nervous, we're here to listen.

**Mrs. Jeckel:** You must be tired from listening all day. I wrote a few things down. Maybe I'm ill informed, but this is only my personal experience, and I'd like to touch on one point in particular.

**Mr. Chairman:** May I just ask a question? I have your note and thank you for that. Is it, "Owner of 11-plex?"

**Mrs. Jeckel:** Yes. I'm here tonight because I was in need of help which was provided to me by Landlord's Aid. I have problems with a tenant who doesn't pay his rent. I don't think I can afford to hire a lawyer for this, so I tried to do it myself. I was complaining to her and she said this is the place I should go to. So I took some time off from work to come here.

I'd like to thank you for listening to me, to begin with. My husband and I own a small 11-plex which is supposed to be our retirement fund. It was supposed to be. We are people who like to look after ourselves and we don't mind hard work. We have never been jobless because we are willing to take on anything. We came to this country in 1957. I worked for 65 cents an hour, 80

hours a week. I've been proud to be a Canadian, because this was a good country and it gave a chance to everybody. I am afraid at the moment it is no longer so. Why? Because hard work and thriftiness is being punished.

Everybody wants a fair return for his labour. Everybody wants a return on the money he puts in the bank. I'm certain that everybody in here feels the same way. So do I, but as a small landlord this is being denied to me. You're asking me in which way? Let me list a few things and just a few figures. The rents in 1973 were \$155. Right now I'm charging \$220. That's \$65 more than it was originally. That's 35 per cent. That was before rent control and it was actually rented below what it should have brought for the money you had to pay for it. That's, over five years, a seven per cent increase in rent. Okay?

At that time, light, heat and water was \$1,910 and my taxes were \$4,055. In 1977 light, heat and water was \$3,742 and taxes were \$6,140. That makes the increase for light, heat and water 98 per cent, which comes to an average of 20 per cent a year over a five-year period. The taxes went up 50 per cent, which makes up 10 per cent over five years. Right? Okay.

[7:00]

I may take in more money, but this alone comes to \$4,000 that I have to pay out on two items. Mind you, they're major items. A stove at that time cost \$145. Today I pay \$230. A fridge at that time cost \$175. Today I pay \$245. For cable TV, which is included in the rent, I pay \$3.50 per apartment because I was nice enough to take a contract for five years. I should have taken 10. That expired, and it now costs me \$5.40.

**Mrs. Campbell:** Or 100 years.

**Mrs. Jeckel:** Painting an apartment cost me \$120. Now it's \$180, if I get somebody to do it. There's the plumber, the drain men and all those costs which aren't covered by what I take in. But that is not my argument, or why I am here.

So far, we have been paying our bills, but only because my husband runs down there after work and repairs the stoves. He never did anything about stoves but he learned how to repair stoves because we can't afford an electrician. He does the outside work; the driveway, the broken windows, the doors, the broken-off handles from the fridge doors and the torn outliners from inside the fridge. I don't know how he does it. The serviceman is only called for big things; such as big plumbing things from plugged drains from

stuff people throw in, which they would never do in their own house if they had one.

You say: "Why don't you go to rent review?" I was there. Do you know what I found out? We are fools. I was not so concerned with the rent controls before because I would not have increased the rent any more anyhow as long as I can pay my bills. After we had to spend \$4,500 on a new roof—my tough luck—and the mortgage came up for renewal and he wanted two and a half per cent more, I went to find out. What did I find out? Because the previous year we sold our cottage and put that money, plus our hard-saved money because my husband and I work, towards that mortgage to reduce the interest rates so that we could pay our bills, I wasn't even eligible for rent review because return on investment is not considered. They only consider your costs.

He said to me: "It's your tough luck." I found out that if I had been smart or had a good lawyer, or been a big corporation, what I would have done was I would have gone and renewed the mortgage for the high cost it was, taken all my books and gone to the rent review and said: "Here are my figures. I need an increase in rent." Then I would have taken my savings and put it in the building and I would have been making a little bit of money, at least for one year.

**Mrs. Campbell:** I don't think you need a smart lawyer, I'll tell you that right now. You've got this figured out pretty well yourself.

**Mrs. Jeckel:** I think sometimes from what I've been hearing from the other people who were here talking about landlords, they should be ashamed to be landlords. I'm not, because I'm a good one. My tenants can vouch for that. I don't like to live in a dump. I wouldn't have the nerve to offer that to anybody. What tenants offer to me when they move out, if I wouldn't have seen it I would not have believed it.

The superintendent is still in the building. The building is an old building and she was in there when we bought it. We came to an agreement and she stayed in there. She said: "Maria, when we had the security deposits this problem never existed. When the tenant was ready to move out he said: 'Carol, come up. Have a look. Is everything okay?'" She said: "I checked and, if everything was okay, there was his money."

What do I get now? I won't go into the apartment. I don't have the right to go in if the tenant lives in there. I can go in with prospective tenants with an appointment; but that doesn't show me the holes in the wall,

it doesn't show me that the inside liner of the fridge has been forcibly removed. Maybe I should have seen that the fridge handle was torn off—I don't know how anybody can do it to begin with. Also, I didn't see the broken windows and a few other things.

After he moves out he doesn't owe me a thing. For me to collect the money, I have to go to small claims court or chase him all over town. I'm working, that costs me more money; so we let it go. It's the same as if somebody skipped on the rent previously. I am not going to chase all over town for a poor guy who didn't have half the month's rent and moved out.

I was lucky he moved. Now I have a tenant in there who hasn't paid the rent for two months. My tough luck, because I am a decent landlord. He started to pay late. If my tenants are late up to 14 days, I don't say a word because most of the time they pay it. Sometimes people forget.

It is my fault; maybe I should be right on the dot and tack this thing on the door as soon as they don't pay, but I don't like to do this because I wouldn't want anybody to do it to me because maybe I just plain forgot that today is the day—that happens.

So this tenant has been late, late, late. He paid me March 28 when he should have paid March 1. I wrote him a nice letter and I said "You are late and I have to point out to you that you have to make an effort to get your finances in order, otherwise I will have to give you a notice of termination." Of course I don't know how to do it. I take this Landlord and Tenant Act and study it and I think I have to say this and this and this. I type up a letter, send it by registered mail.

Then I thought, I had better go to the tenants and landlords office just to find out if it is right. He says to me "Yes, basically you did it right, except that you should have quoted that section"—I think 102, I only quoted 101—"saying that he has a right to appeal." I think I explained that in my letter, but I did not quote the paragraph. So he said "You had better take this standard form, fill it out again and go down there and give it to him again."

I go upstairs there and the lady is at home—I know she lives above the superintendent. I call her; I said "Mrs. Davidson how are things coming along, do you think you will have the rent?" She says "You talk to my husband, he got us into this trouble." She said, "He is not here." I said, "I have a letter for you and I would like to give it to you." So she says to me, "No, I'm undressed." I

said, "Throw something on and open the door and I will give it to you." "No," she said, "Leave it with Carl. I will pick it up tomorrow." Carl is the superintendent. So, I said to my husband, "We should put it on the door because according to this thing, you can tape it on the door." "No," he says, "you can't do this. It is embarrassing if somebody goes by and sees it on the door, it must be something. Don't do it. Carl can give it to the tenant tomorrow. Tomorrow comes you give it to them."

Of course, what I didn't know is that I should have changed the date to the next day because the day it was given to them was May 4, not May 3. I didn't know that either, but then I was thinking of not taking a lawyer because it costs a lot of money. If I could do this myself, to apply, I might have to lick them.

So I phoned this landlords' aid, and she said you come down. When I explained the story, she said you will have to do it all over again because you should have changed that date. So I said, what am I going to do? My husband said give them a chance maybe they will come up, they have 15 days to give it to you, leave it until then. So we left it until then, and of course nothing comes. Here we go again, another piece of paper, and this time I stuck it to the door. So the next thing I will go to court.

This is just to show you how hard it is to get them out. Probably they will be there another six months. I'll pay the hot water, the hydro, they are using my appliances. Then when they go out, I won't be able to collect the money because they haven't got it.

But that's not my problem either, that's not even what I wanted to talk about. I am just getting side-tracked. The main thing—

**Mr. Chairman:** Is your heart still pumping?

**Mrs. Jeckel:** Now I am okay, I'm just going.

**Mr. Chairman:** Mine is going like crazy; so is Mac's.

**Mrs. Jeckel:** The thing that I really wanted to point out—I wasn't going to talk about this because I thought it was not among the things which were discussed here, I figured you were not talking about the relationship between tenant and landlord but do we keep the rent controls. The only point I was trying to make is that I know I won't be rich and I don't intend to be rich, but I think I should have the right to get a fair return on my money and I say it should be at least 10 per cent. I can have a beautiful first mortgage for 10¾ per cent—no hassle, no trouble, no running after your money, no having the phone

ringing and the stove not going. I can't afford to buy a new one, so you go and fix it, take one part off here, put it in there. It drives me crazy to think of it.

Okay, I don't think—

**Mr. Chairman:** Sorry to interrupt, but are you just about through?

**Mrs. Jeckel:** I will make it brief. I'm coming to the point. I know you want to go home.

**Mr. Chairman:** If you would please, because there may be some questions.

**Mrs. Jeckel:** The way the law is right now, if it stays that way I know what I am going to do. The thing is going to go on the block. It's being sold. The next guy who is going to buy it will have a much bigger mortgage. He will go to rent review if it stays the way it is. He will get his increase, because his costs are higher. And who who is paying? The tenants.

I am satisfied if I get a fair return—I don't mean an exorbitant return, a fair return. But that is denied me the way the law is right now. There should be a provision that on your actual money in there—okay, I bought the building for \$150,000, now it's worth \$200,000. But I put in \$150,000 of my own hard-earned money; I should get \$15,000 return on that, that should be allowed. Otherwise, why should anybody be bothered with this?

Why am I obliged to provide for people who can't fend for themselves because they are spending their money—not everybody, some of them—on beer and booze and don't want to work, that want to live rent free? No way; what I will do is I will sell and let somebody else have the headaches. But you know who is going to suffer in the end? The tenant. Because who is buying up those small buildings? The corporations are buying them up. They can deduct this, they can deduct that; I, as an investor, I cannot deduct anything.

**Mr. Ziembra:** What is the address?

**Mrs. Jeckel:** Keele Street.

**Mr. Ziembra:** What is the number?

**Mrs. Jeckel:** 2994 Keele Street.

My husband goes and he paints. He fixes the stoves. He does this, that. That is free labour with no return—no return which is legally allowed to me. I don't think it's right. I think most of the small landlords provide much better and cheaper rental accommodation than the big corporations, because they are usually the ones who buy the old buildings and fix them up. They are the ones who put in their own hard work.



Initially, when we bought this building, it was to protect our money because of inflation. Of course if there was an increase in value, that has been taken away more or less because of capital gains tax. If you say in the meantime if I could just break even and pay my bills and then sell it, at least I get something. By the time I sell it the laws have been changed and I end up with nothing. I don't think it's right.

Why should I—

**Mr. Chairman:** Mrs. Jeckel, if I might—

**Mrs. Jeckel:** I'm getting carried away, I know that. I think I will just leave it at that.

**Mr. Chairman:** Are there any questions for Mrs. Jeckel?

**Mrs. Jeckel:** I would just say, provide the tenant with everything; but to be a small landlord today you deserve a medal, never mind a fair return.

Interjections.

**Mrs. Jeckel:** I am not complaining. My tenants are very good, except one. Because

the bad ones in the meantime have moved out and we were careful in whom we took in. So far most of them are not too bad, except one. That's my problem. I don't even complain about that. But darn it, I can't get a good return on my money and that bothers me.

**Mr. Chairman:** That came through and if you want to spend more time with Mr. Makarchuk after we would encourage you to do so. Mrs. Jeckel, thanks very much for waiting.

**Mrs. Jeckel:** Thanks for listening. I wasn't too coherent in some spots. I get too excited, but if I would do this more often I would get better.

**Mr. Epp:** You did very well.

**Mr. Chairman:** No comment. Thank you very much.

The meeting is adjourned.

The committee adjourned at 7:13 p.m.

## SPEAKERS IN THIS ISSUE

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Breithaupt, J. R. (Kitchener L)  
Campbell, M. (St. George L)  
Duksza, J. (Parkdale NDP)  
**Epp, H. (Waterloo North L)**  
Hall, R. (Lincoln L)  
Makarchuk, M. (Brantford NDP)  
McCaffrey, B.; Chairman (Armourdale PC)  
Scrivener, M. (St. David PC)  
Sterling, N. W. (Carlton-Grenville PC)  
Warner, D. (Scarborough-Ellesmere NDP)  
Williams, J.; Acting Chairman (Oriole PC)  
Ziemba, E. (High Park-Swansea NDP)

### Witnesses:

Adams, B., Parkdale Working Group of Bachelorettes  
Balfour, St.C., Chairman, Toronto Redevelopment Advisory Council  
Bradshaw, J., Member, Board of Appeals, Ontario Rent Review Program  
Bryan, J. W. P., Executive Officer, Toronto Redevelopment Advisory Council  
Cartwright, P., Milton, Ontario  
deKlerk, J., Chairman, Federation of Metro Tenants' Associations  
Hageman, P., St. Clair Avenue West Tenants' Association  
Hale, K., Tenant Hot Line  
Harriman, A., Member, Board of Appeals, Ontario Rent Review Program  
Jeckel, M., 2994 Keele Street, Toronto  
Krehm, W., O'Shanter Development Company, Toronto  
Larocque, D., Mississauga Tenant Action Centre  
Lessel, A., Member, Board of Appeals, Ontario Rent Review Program  
Oakes, E., Regional Municipality of York  
Perks, R., Mississauga Tenant Action Centre  
Robinson, J., 109 Spadina Road, Toronto  
Robinson, L., Mississauga Tenant Action Centre  
Silverberg, G., 1646-48 Bathurst Street Tenants' Association  
Taylor, A., Director, Children's Aid Society of Metropolitan Toronto  
Wilke, E., Tenant Hot Line







# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### General Government Committee

Estimates, Office of the Assembly



### Second Session, 31st Parliament

Wednesday, December 6, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

WEDNESDAY, DECEMBER 6, 1978

The committee met at 10:10 a.m.

## ESTIMATES, OFFICE OF THE ASSEMBLY

**Mr. Chairman:** The committee will please come to order. It has been suggested, and I want to get the committee's concurrence in this, that in deference to Mr. Lewis who has to leave very shortly we begin with item 2, Office of the Clerk, and proceed then to item 11 because Mr. Wishart and his associates are here. Then, Jack, if it is all right with you, we will come back to item 1, Office of the Speaker.

**Mr. Nixon:** The estimates of the Board of Internal Economy will be dealt with sometime later, Mr. Chairman?

**Mr. Chairman:** I should think we'll get to them very shortly. I don't know how long?

It will be items 2 and 3 for Mr. Lewis: Office of the Clerk and the chief election officer. So, Mr. Hennessy, Mr. Epp, Mr. Kennedy and Mr. Lane, if you have your books there, are there any questions you want to ask?

On vote 201, Office of the Assembly program; item 2, Office of the Clerk, and item 3, chief election officer:

**Mr. Kennedy:** Why is it up, Mr. Clerk?

**Clerk of the House:** As a matter of fact, we were underexpended, I understand, for the last fiscal year. The increases are just the normal increases required for salary increments.

**Mr. Kennedy:** For the benefit of Hansard, the estimate for 1976-77 was \$445,000 and you spent \$423,000. The estimates for 1977-78 was \$621,000.

**Clerk of the House:** There was the filling of one vacancy and two additional assistant clerks of committee were added. So the increase reflects the salaries for those people as well.

[10:15]

**Mr. Kennedy:** As well as incremental increases for the entire—

**Clerk of the House:** For the rest of them, that's right.

**Mr. Hennessy:** Do you intend to fill the vacancy?

**Clerk of the House:** I have already done so.

**Mr. Kennedy:** You are out of luck, Mickey.

**Mr. Hennessy:** After yesterday afternoon in the House I thought maybe I would be safer on your side.

**Clerk of the House:** I filled one vacancy and on instructions from the Board of Internal Economy I added two more.

**Mr. Kennedy:** What is the total complement of staff?

**Clerk of the House:** Nineteen.

**Mr. Kennedy:** Thanks, Mr. Chairman.

**Mr. Chairman:** Any other questions?

**Mr. Nixon:** I wonder if I might, not as a member of the committee, but as a member of the Legislature, have some information from the chief election officer? His office does not now handle liquor votes?

**Clerk of the House:** No.

**Mr. Nixon:** Who handles that?

**Clerk of the House:** It is handled at the local level. Under the new Municipal Elections Act it is handled by the municipal clerk at the local level.

**Mr. Lane:** How many people are employed in that office?

**Clerk of the House:** In the election office? Eleven.

**Mr. Chairman:** Further questions? Shall we vote on these or come back? Does it matter to the committee?

Items 2 and 3 agreed to.

On item 11, Commission on Election Contributions and Expenses:

**Mr. Wishart:** Mr. Chairman, I very briefly would say that I think our estimates are very close to what they have been previously. Any increases have been explained in the material before you and there are a number of substantial decreases due to the fact that we were not anticipating an election.

**Mr. Nixon:** That's a relief.

**Mr. Wishart:** If that happens there will have to be a supplementary vote. I think I have nothing in particular to comment on.

**Mr. Epp:** I wonder if Mr. Wishart would indicate what effect the rash of by-elections



that we are having will have on his particular budget.

**Mr. Wishart:** There will be the subsidy payments for two by-elections, Chatham-Kent and Sault Ste. Marie, and subsidies to the candidates and the auditors. They are not large amounts. The average subsidy to a candidate is around \$6,000; an auditor, I think we are entitled under the act to pay \$500 for an examination of the campaign period returns, and they won't be large items. We don't have other particular expenses in connection with an election. We do certain additional mailings but that is very minor.

**Mr. Epp:** Do you budget a certain amount for these, or how do you handle it?

**Mr. Joynt:** Actually we have to deal with any elections as they are called under supplementary estimates because the subsidies are statutory payments. We have to pay them, but we can't forecast when it is going to happen.

Actually we have a recommendation before the Legislature for a change in our act to provide for subsidy payments to be made statutory so we wouldn't have to budget for them as such.

**Mr. Wishart:** If we had to budget for an election, particularly for a general election, it would be a matter of somewhere between \$2 million and \$3 million. It would be impractical to put that in a budget and ask you to vote on it, so we have a special provision in the act. If it's called for then it has to come back to the Legislature.

**Mr. Epp:** The Premier (Mr. Davis) might even think you're trying to intimate him into calling an election if you have that put in the estimates. All the payments then, Mr. Wishart, to the candidates have been made for the last election?

**Mr. Wishart:** They have all been made, I believe.

**Mr. Epp:** Thank you.

**Mr. Wishart:** They could have been made more quickly, I might say—this may be irrelevant to our discussion, but we had some difficulty in getting candidates and constituency associations to file campaign period returns on time, as required by the act. Part of our time was spent in persisting in following them up.

**Mr. Kennedy:** Does that apply to losers and winners?

**Mr. Wishart:** Unfortunately, yes.

**Mr. Hennessy:** There's another by-election coming. Is there money put aside for that?

**Mr. Wishart:** We don't have any particular expenditure in the commission apart from

our normal administrative costs. If a general or by-election is called, the matters that concern us then are payments of subsidies to auditors and candidates. After the election is over, as I say, we have to come back and ask that those amounts be voted. We can't budget for them. We don't know when they are going to be called.

**Mr. Chairman:** Mr. Martel and then Mr. Nixon.

**Mr. Martel:** I would like to ask Mr. Wishart, not having dealt with this act for a number of years, if the commission is making recommendations with respect to the act for changes in the act, and, if so, what he sees are the serious problems with the act, if he feels free enough to share that with us.

**Mr. Wishart:** We submitted in 1976 and 1977 a series of amendments to the act which we've requested be taken into the Legislature and we trust they would be passed. The commission, as you are aware, is an all-party committee and I know all of the amendments went with complete unanimity. I didn't anticipate that there should be much debate in the Legislature with respect to them, but I must say that so far I can't ascertain that they have ever been presented.

The leaders of all parties got those amendments and I believe that they were made very public. I think they were distributed to the members. We are just anxious to see them go forward. I presented them to the leaders of the parties and the Speaker. We have no minister as such under whom we are operating. We report to the Speaker. Of course, he is not a minister of the House. All we can do is put forward our views to those parties we see fit. We have seen fit to do it to the leaders of all parties in the House.

While we are on the subject of amendments, I think I might say to you that in our examination of party returns, candidate returns, constituency association returns, we have observed a number of cases where funds collected under the act for provincial parties' purposes, in my opinion, are being used for municipal candidates. We reported that to a certain party, not all parties in the Legislature, and this is still going on. We have no authority to stop it, but my own feeling is that the money collected under the Election Finances Reform Act was meant for provincial party purposes, not for municipal purposes. A number of constituency associations are using the money for those purposes. All we can do is report it. We have had to approve their returns. At least, we feel we should approve them.

**Mr. Nixon:** In that case they may report payments to a municipal campaign.

**Mr. Wishart:** I think that is one of the matters that would be dealt with if our amendments come forward. We haven't proposed an amendment in that respect, but we have reported the fact of the matter to the party leaders and I think that ought to be clarified under the act.

**Mr. Lane:** There is nothing under the act to prohibit it?

**Mr. Wishart:** No, there is nothing under the act to prohibit it; but some of our members have argued that since there is no prohibition it is not wrongful. As long as it lives within the terms of the act as to election expenditures, the constituency association can spend its money any way it sees fit—and it does.

**Mr. Martel:** Have you found any flagrant abuses of the act in four years?

**Mr. Wishart:** No, nothing that was deliberate or flagrant in the whole experience we have had. There have been one or two that have been a little more serious than the normal delay or slight overexpenditure in advertising or something of that sort, through ignorance or carelessness. Nobody has deliberately tried to flout the act. We report every contravention to the Attorney General. The act calls for us to do so.

**Mr. Nixon:** I just want to know what your views are, Mr. Wishart, on the fees for accountants. Since the \$500 fee is the maximum, is there a tendency that the accountants are all uniformly now paid that?

**Mr. Wishart:** I think that is generally satisfactory. The situation is quite a varied one. In many constituencies the chief financial officer for a candidate or for the constituency association is a very competent, capable and conscientious person. If he does his job well, there is very little for an auditor to do.

**Mr. Nixon:** That's my feeling exactly. Why should they get \$500?

**Mr. Wishart:** I must say, quite frankly and quite openly, auditors don't do very much. In most cases they just send the thing back with their standard certificate, saying "It looks all right to us."

**Mr. Nixon:** "With the information that has been provided."

**Mr. Wishart:** Or words to that effect.

**Mr. Martel:** And their fee schedule.

**Mr. Wishart:** There are some cases where we do have to urge the auditors and get their assistance to dig up receipts, to get bank statements and to go into the matter to assist

the CFO. But, generally subject to Mr. Joynt's opinion; he is a chartered accountant—I don't think the auditors are underpaid in any way.

**Mr. Speaker:** Last week the member for Brant-Oxford-Norfolk was on lawyers; this week it's chartered accountants.

**Mr. Nixon:** Any time you can pick up \$500 for what the chartered accountants do in this audit, you'd better grab it, Jack. It's even easier than the money you are making, believe it or not.

**Mr. Wishart:** Occasionally, I might say, we get a nil return from a constituency association—they haven't taken in any money and haven't paid any money out—but it has to be audited under the act. The bill may run to \$100, \$200 or \$250.

**Mr. Nixon:** An audit is required on a yearly basis by the constituency organization as well, is it not?

**Mr. Wishart:** The returns that are required under the act, if there is an election, are the candidate's campaign period return and the constituency's campaign period return, both of which have to be audited. Then there is the annual return of the constituency association, the annual party return. One of our amendments urges the Legislature to knock out of the act the constituency associations' campaign period return, which we think is unnecessary.

[10:30]

**Mr. Nixon:** I would agree with that, I think we should really proceed with those amendments before it gets too late. In the off-year, it is also necessary to have an audit for the purposes of the commission. Is that paid for at another rate—\$250?

**Mr. Wishart:** Yes.

**Mr. Nixon:** Then an accountant who lines up with a party association would get \$500 maximum in an election year and \$250 each other year. Mr. Joynt is saying no.

**Mr. Joynt:** Actually, in an election year that auditor could get \$500 for the candidate's return, \$250 for the association's campaign period return and up to a further \$250 for the annual return of the association. He could potentially get \$1,000.

**Mr. Nixon:** I bet there are some chartered accountants who don't even realize that.

**Mr. Martel:** Do you want to bet?

**Mr. Nixon:** I would also like to ask the chairman of the commission if one of the recommendations for amendment covers the eventuality, greatly to be desired by a candidate, where the funds collected are far in excess of what is necessary for the campaign



and where over the years this fund becomes a very large fund indeed at the local level. Is there some indication that the per-name grant would be withheld when the local funds, the audited amount, let's say, gets to a point where it is two or three or four or five times the amount that comes from public subsidy?

**Mr. Wishart:** No, there is no such suggestion in the amendments we have put forward. I think I should say to you that generally the amendments which the commission has proposed have to do with administrative matters, with ways we feel the act could be improved in its administration to save money and be more efficient and so on. We in the commission have felt that matters such as you suggest are matters of policy which the Legislature should take under its jurisdiction.

**Mr. Nixon:** I think that's right.

**Mr. Wishart:** The act says: "The commission shall recommend to the Legislature any amendments which it deems advisable." That doesn't prohibit us from suggesting amendments on policy, but we have not felt perhaps that it's our field to start telling the Legislature, for instance, that a candidate should get a bigger subsidy or a lesser subsidy, or comment on the registration of a party. We look at the petition. Policy might decide that something more than that be done to determine the ideology, the objectives, the attitudes of a party seeking registration, but all we can do is look and see if they have 10,000 valid signatures. I think the other side of that is policy for the Legislature to determine.

**Mr. Nixon:** If you felt a concern, don't you feel you should express such a concern, for example, if a party association at the constituency level has many thousands of dollars in surplus and still under our regulations the taxpayers are required to kick in another \$6,000, \$7,000 or \$8,000 at election time?

**Mr. Wishart:** No. Quite frankly, I haven't given that any thought. We've never discussed that in the commission, I can tell you. If I were to think about that—and I'd like to think about it—there are arguments on both sides of that question. One constituency may be very active politically and involved, which is a good thing, and may raise substantial funds. I can think of another party in a constituency which is very lackadaisical and doesn't take any part in the political game. Why should the active ones be penalized? I could give you an argument on both sides.

**Mr. Nixon:** Why should we pay them money they don't need? I have just one or

two other questions. You're talking about certification of a party under our rules. You have no criterion except 10,000 names for the certification.

**Mr. Wishart:** That's right. Ten thousand.

**Mr. Nixon:** So any kind of a wild group might very well get petition names—and we know how easy it is to get petition names—and would then be certified and eligible for the support that comes from you.

**Mr. Wishart:** Yes. And I must say this gives me concern, and I have expressed it to the leaders of the parties. We have 16 parties—not all 16 are now registered—but we have 16 applications. Of those, six are registered parties—three in addition to those in the House—the Communist Party, the Libertarian Party and the Northern Ontario Heritage Party. Those are the six parties, but we have 10 more on deck. Some of them are out trying to get signatures.

I am concerned with this proliferation of parties. I don't think it adds to the democratic process at all to have a great proliferation of people in the field. There's nothing to prevent any number of independents running, of course.

I've discussed this matter with M. Jean Marc Hamel, who is the federal officer. They have a provision at the federal level—they met this situation, observed it and then amended their act, I understand, to require that if a party gets registered or seeks registration, it must nominate 50 candidates in an election when called. If they don't, they disappear off the scene. But something of that nature I feel would be wise. Maybe not 50 in the province, but I think there should be something more than just going out and getting 10,000 names. I could go out in Toronto and have 10,000 names in a couple of weeks without—

**Mr. Nixon:** It must be a very difficult job to check that.

**Mr. Wishart:** We're having a problem right now with a party which has filed a petition some several months ago, checking it down. We're only able to find perhaps 15 to 20 per cent of those names. It's a lot of work. We do a telephone interview; we send a letter. We select a number of the 10,000. We started off with around something under 400 and did a survey. We got nothing you could base any opinion upon. We increased that to 1,000. We're doing a letter to them and a telephone interview. Then it's necessary to make a proper, reasoned decision—a personal interview—we have to get extra staff to do that. I think it's something that needs correcting.



**Mr. Nixon:** Is there any reason you would hesitate to tell us the name of the party that is being examined by the commission?

**Mr. Wishart:** No. I don't hesitate to tell you anything. The party is the Nationalist Party of Canada.

**Mr. Nixon:** This is, some say, sort of a copy of a Nazi party.

**Mr. Wishart:** We have had correspondence—some of you are aware of it. We've had letters from them and letters from people who have signed retracting their signatures. We have letters from groups of people who are very concerned about their attitudes and their backgrounds and their records. So far, we only have individuals. We've been very concerned, and we're trying to do a conscientious examination of that petition.

We have no authority and, as I say, we've stayed away from policy recommendations up to this point. I think probably it's not for the commission to get into the field of policy. The Legislature has that authority, I believe.

**Mr. Chairman:** I very much respect what you said and I think it's a complicated question. How would the Legislature address itself to these matters of policy if you don't bring these through the Speaker? How does the Legislature know about that particular party and that they have filed?

**Mr. Wishart:** As I say, we have informed the leaders of the parties in the Legislature and sent them copies of the correspondence—

**Mr. Chairman:** On this matter?

**Mr. Wishart:**—which expressed concern and objection. The Legislature then would study what other jurisdictions have done, such as the federal, or decide on its own what safeguards might be placed around the registration of the party.

**Mr. Chairman:** I'm sorry, I just didn't realize you had communicated on that particular issue.

**Mr. Warner:** I had a couple of questions. Picking up on the last one, it's a subject which needs to concern all of us. It should be done carefully. We should take a look at as many jurisdictions as we can. Obviously, each democratic country tries to have some safeguards while making sure there are adequate provisions so that people can run for office and that we don't limit people's beliefs in the system.

**Mr. Wishart:** That's very well said. I like that thought.

**Mr. Warner:** You touched on it earlier, but I have a question about money which is

collected in a provincial audit and then used municipally. You didn't make a recommendation in your report or in your letter to the—

**Mr. Wishart:** No, we didn't. It came to our attention when they filed a financial return. It was discussed in the commission. There was a difference of opinion in the commission. Certain members felt the act didn't prohibit it and maybe it's a good idea. It's political involvement. It's not for us to condemn it. The commission in effect just decided to let us monitor the situation and see how much of it goes on and inform the parties. This we have done.

**Mr. Warner:** It makes it a bit awkward if it isn't spelled out or there aren't recommendations. At some point, if the assembly is going to deal with all the recommendations and any other related matters from the commission, we should address ourselves to it.

I always believe that you take these things head on and deal with them. It's kind of a grey area. You can do one of two things. You either spell it out allowing that to occur, or you find some other way to handle it. It may be prudent, for example, to have a provision whereby you have an act which applies specifically to the municipal elections as an adjunct to what we have provincially. That may be one route to go.

On the other hand, it may be enough to simply spell out what we mean in the existing legislation where we do have this grey area, or to say, "It's prohibited. You cannot do it." But at this point, the people who are politically active municipally are under a bit of a cloud. This casts some shadow on them—while it isn't illegal, it doesn't sound as though it's a very good thing to do. Yet we've spent a lot of years trying to promote political activity and getting people involved politically at all levels, municipally as well as provincially and federally. I would hope that at the appropriate time we would have the chance to try to iron out the details and find some way to clear up this grey area.

My last question is one of procedure, although I was late the other members may be aware of it. The three leaders have each received a letter. Maybe I was mailed something, I don't recall. I'm wondering what happens from here. How do we take the matters relating to election expenses and the commission and whatever suggestions it has and deal with that in the assembly? I don't know.

**Mr. Wishart:** There is a section in the act, as you're aware, prohibiting the transfer of funds from a provincial party, candidate or

association to the federal field. There's nothing about the municipal.

[10:45]

**Mr. Warner:** Can you answer my question?

**Mr. Chairman:** No, I can't. Mr. Speaker, you heard Mr. Warner's question. I think the problem is in place and we're just looking for the form and the time to deal with it.

**Mr. Speaker:** I get the annual report and the estimates for the election expenses commission. It comes to the Speaker's office and is handed over to the Board of Internal Economy for its approval. Talking about grey areas, Mr. Wishart has stated that he doesn't have a minister to report to in a sense. It's incumbent upon the Speaker's office that anything of a financial nature go to the Board of Internal Economy.

The real grey area is that there were amendments that were proposed a year and a half to two years ago by Mr. Wishart, and I have no alternative but to give them to the government House leader because I don't have the authority to put legislation before the House or to carry it to the House. That's just not a part of the function of the Office of the Speaker. As a result of that, there's considerable delay in taking action on legitimate recommendations from the election expenses commission. Under the Legislative Assembly Act, I don't have the authority to do anything. All I can do is echo the sentiments expressed by Mr. Wishart that these recommendations be acted on expeditiously.

This is an all-party committee and I would ask you to impress this need upon those people who are responsible for bringing forth much needed legislation by the election expenses commission because they are doing what I consider to be an excellent job. I think they deserve the support of the Legislature. It is the collective responsibility of members of the Legislature to react to suggestions, recommendations and amendments brought forward by Mr. Wishart and his colleagues. As I say, I don't have the power to do anything about it myself but I can sympathize with Mr. Wishart and I can only reinforce what he has said.

There are certain areas, as a result of their working with the act, where they can see things that have to be tightened up. It's our responsibility to do it, but there is nothing I can do about it personally other than to admonish you to set the wheels in motion. If there is any one person who can expedite it, it would be the government House leader who is also a member of the Board of Internal Economy and is well aware of those

recommendations. I think that's where the action has to start.

**Mr. Warner:** I appreciate that, Mr. Speaker. It seems to me at first glance anyway to make sense to have reporting from the commission done to a committee of the Legislature—I'm not sure which committee is appropriate; general government, justice or whatever—rather than to a specific minister, since I believe that this matter is something which affects all parties and I think all parties have supported the election expenses commission.

I would certainly echo the sentiments of Mr. Speaker that the commission, to my knowledge, is doing a first-rate job and has assisted whenever possible. They've been extremely helpful when people have asked for their assistance. It seems to me that if we could define that whatever reporting is to be done from the commission is done to a committee and that the committee can take a look at the recommendations and then forward its suggestions for legislation directly to the government House leader or to whoever else is responsible in the cabinet so that we might have a more direct vehicle,

It would take some of the pressure off the government House leader from that aspect, and the committee itself could be involved in what it would determine to be proper legislation pertaining to the election expenses. I don't know how we're going to go about trying to make that happen, but that's my suggestion as to the way to handle it. I don't like to see valuable reports get lost in dust.

**Mr. Speaker:** I am reminded that I did write a letter a year ago last month, that's about 13 months ago, saying that this was a concern of the chairman of the election expenses commission. I thought it deserved my support and I asked them if they would proceed with all possible haste. That was 13 months ago; I am still awaiting a reply.

**Mr. Wishart:** I must say Mr. Speaker has been most helpful to us in every way, but there's a limit to what he can do.

**Mr. Warner:** Yes.

**Mr. Nixon:** I would suggest that you might put it on the agenda at a board meeting and have a little bit of face-to-face discussion about it. I don't think there's a nefarious plot, although it figures.

**Mr. Chairman:** David, are you finished?

**Mr. Warner:** Just the last one.

**Mr. Chairman:** Can I backtrack a little bit? Mr. Nixon's point is that this should come under an agenda at a Board of Internal Economy meeting. That's a good idea; but do you want to make it a little tighter? Do you make



motions all day and all night; do you really want a motion to that effect?

**Mr. Warner:** No, I wouldn't do that. I just want to clarify what Mr. Nixon meant. What is it that you want placed on the agenda?

**Mr. Nixon:** Just a submission of the recommendations from the election expenses commission.

**Mr. Warner:** Okay, that's a good start; and then perhaps if it is so determined it can go to a committee. Mr. Wishart has mentioned a couple of items this morning which I gather were not included in the recommendation sent to the House leader. Those items then could be dealt with if it goes to committee. I'd like to see a defined way, so that valuable reports aren't shuffled around and ignored.

**Mr. Chairman:** You're really requesting that the board members, many of whom are here, address themselves to both those matters; and then what, go back to whom?

**Mr. Warner:** Well, I would—

**Mr. Chairman:** To the Speaker? I mean that's where we started.

**Mr. Nixon:** No.

**Mr. Warner:** Perhaps the board, in its wisdom, and it's purported to be filled with wise people—

**Mr. Nixon:** Right; a pleasure to add it's true.

**Mr. Warner:** —could recommend that the matter of this report and subsequent reports go to a particular committee and then pick out whichever committee. We could appoint a standing committee.

**Mr. Nixon:** Or maybe we could set up a special one like the Ombudsman committee.

**Mr. Warner:** No, nothing that grandiose. One of the standing committees, whether it's justice or general government or whatever. This would be a responsibility of that particular standing committee and it should deal with it on an annual basis. That's my suggestion. I'd like the wise people at the Board of Internal Economy to deal with that.

**Mr. Hodgson:** Why would you have another committee? We have enough committees now.

**Mr. Speaker:** There are six voting members on the Board of Internal Economy. Three of them are cabinet ministers and the other three are elected members of the other three parties. Lest you give these off to yet another committee, there's only one person who is responsible for ordering the business of the House, and he also happens to be a member of our committee. Just to keep it as

uncomplicated as humanly possible, I would suggest that you leave it with the Board of Internal Economy. We've taken note of it and we will be taking those on the agenda for our next meeting. Let's see what happens from there.

**Mr. Warner:** Okay.

**Mr. Chairman:** Are you happy with that?

**Mr. Warner:** Yes, thank you very much.

**Mr. Chairman:** You had another question, I think, didn't you?

**Mr. Warner:** It will wait.

**Mr. Chairman:** Okay; Mickey just before you begin, if I may interrupt you; as you know we were to proceed today into the estimates of the Ombudsman after three hours. Mr. Hoilett, who some of you may know is the chief spokesman on the manner of the Ombudsman's estimates—

**Mr. Speaker:** Acting Ombudsman.

**Mr. Chairman:** —Acting Ombudsman, thank you—requested in light of the death yesterday of that lawyer who was a close friend of his, that we postpone and reschedule the Ombudsman's estimates. He wishes to attend the funeral. Is that agreeable to the committee? We had three hours. We may conclude earlier; if not, then we'll proceed here until one o'clock. Now Mr. Hennessy.

**Mr. Hennessy:** I was very interested in the matter you brought up about municipal candidates receiving provincial money. I think this is a very difficult area because, if you do nothing, it is going to increase. From what I understand, if a person wants to run for municipal office and just hasn't got the necessary funds, money from another source could wipe him or her out.

This is a gap that I would like very much to have closed up, because it is my understanding that a riding office is not to be used for political purposes. Indirectly or directly, however you look at it, it has been used for political purposes, because they are going into another political field by sponsoring a candidate in some of the ridings. I understood you couldn't put signs of any candidate in your office, because you could more or less run into the problem of being political to some extent. I think something of this nature could grow to the point where money from your riding could be used to back certain candidates.

From what I understand, the award system is designed so that a person with a small number of dollars will have an opportunity to run. But if someone with a lot of dollars



comes in, he can advertise and campaign so much that the other candidates with less money won't have a chance of getting elected. Something of this nature is going to be abused.

If we are in one league, we should stay in that league and not get into the municipal league. We can get in there personally but not with funds, because these funds are being collected for a certain purpose. I would like to propose that a recommendation be brought back. I would like to know, is it possible to have the names of the people or the ridings that were doing this?

**Mr. Wishart:** All our records are public and open to any person in the public. Reporters come in all the time. The records are there. If anyone came in and asked to see the record of any constituency association, they are all public.

I won't express an opinion, but the commission has said, "We will monitor it and report it." That we have done. I think I should tell you that I believe all parties to some extent have done this. There are not many cases; altogether, there are maybe 10 or 12 constituency associations, divided among the three parties in the House, that have backed municipal candidates.

My only comment, apart from reporting it—I did this in the letter when I reported it—is that the Election Finances Reform Act, associated with the Ontario Income Tax Act, provides a tax deduction for a contribution to an Ontario political campaign or political purposes or objectives. If that money is being handed to a municipal candidate, it seems to me that this is subterfuge. There is no law that says a contribution to a municipal candidate can get a tax deduction. But if you go to your constituency association and give the chief financial officer \$50, \$100 or \$500, he can hand it over, if the constituency sees fit, to a municipal candidate and a tax deduction is claimed, quite legitimately.

**Mr. Hennessy:** If you say there are 10 or 12 now, then three or four years from now there could be 35 or 40.

**Mr. Wishart:** Very likely.

**Mr. Hennessy:** Therefore, it will get out of line and, the first thing you know, you will have a lot of problems. If a riding association has extra money for its candidate, the money is not being used properly in relation to the other persons who are running against that candidate.

As far as I am concerned, that loophole should be closed; the money should not be given to municipal candidates, because it is for a different category altogether. Where I

come from, the talk seems to be that the reason for the award system is that the guy with the small lunch pail can have a chance to get elected. But if a person from some area has a chance to get X thousands of dollars thrown into his lap, it makes it very difficult to defeat that candidate; it also becomes a provincial and federal campaign to some extent. Before it becomes too large a problem, some legislation should be brought in. This is being abused, as far as I am concerned.

[11:00]

**Mr. Chairman:** That is a good point, Mr. Hennessy.

**Mr. Gregory:** I had a couple of questions for Mr. Wishart with regard to use of funds between elections. I know of one restriction regarding advancing of funds from a provincial party to a federal party organization. I learned that lesson the hard way. I got my knuckles rapped. That was total ignorance on my part.

What control do you have over that? I am not as familiar with the act as I should be. What is to prevent a riding association from being a provincial riding association and a federal riding association—that is, one and the same? Correct me if I'm wrong, Bob, but I believe the Liberal provincial association and the federal are one and the same, both—

**Mr. Nixon:** That's right.

**Mr. Gregory:** How do you control that? For example, if you have an association that is both federal and provincial, how do you control the funds donated to that riding association?

**Mr. Wishart:** We insist they keep separate records of contributions and expenses, and separate bank accounts. Money collected for federal purposes is given on a federal format receipt, and money for provincial political purposes must be kept separate in a bank or trust account. The receipts also have to be kept separate—no mixing and no mingling. If we find they are not doing that we are very definite about insisting upon it. We have had everybody conform to that.

There have been a couple of cases, I think, where perhaps through ignorance of the law or through a bit of carelessness there was a little mingling. But we got it straightened out. Everybody is measuring right up to the mark. We have no difficulty.

**Mr. Gregory:** There is no difference on transferring funds between elections and transferring funds during elections. It just can't be done?

**Mr. Wishart:** Provincial funds can't be used federally at any time. There is a very definite prohibition in the act on transfers.

**Mr. Gregory:** Do you have any responsibility, or perhaps advisory capacity in regard to municipal campaign funds at all?

**Mr. Wishart:** No.

**Mr. Gregory:** You don't have anything to do with that?

**Mr. Wishart:** The act is absolutely silent on it. The definition of candidate in the act means a candidate of the province in my view. But it is not quite that clear. At least the act doesn't specifically have any prohibition about a constituency association using its funds. That's why we have to retract any effort we might make. As I say, the opinion of the commission was divided. It was "let's look at it, but let's report it to the parties"; which we did.

**Mr. Gregory:** In your opinion I gather the provincial association shouldn't be able to contribute to a municipal campaign?

**Mr. Wishart:** That is policy which I would ask the Legislature to decide.

**Mr. Gregory:** The other question along that line, and perhaps it is not fair to ask this question: in a municipal campaign who do the funds belong to, if the fund raising is for a municipal candidate?

**Mr. Wishart:** You are asking me to get into a legal opinion on municipal politics. I might offer you one, but it might not be very good.

**Mr. Gregory:** I guess I am asking you for an opinion.

**Mr. Wishart:** We don't have any views on municipal politics.

**Mr. Gregory:** What I am getting at is, when there are funds raised and it isn't all used, who does the residue belong to in a municipal campaign?

**Mr. Wishart:** If the candidate collects the money?

**Mr. Gregory:** No. If there is a fund-raising committee, a committee to elect a municipal candidate.

**Mr. Wishart:** You're talking about a municipal campaign? A committee goes out and collects money for a municipal candidate?

**Mr. Gregory:** Yes.

**Mr. Wishart:** If I gave some money to someone supporting John Doe as a municipal candidate, it's their money to do as they like with. He can put it in his pocket and spend it as he likes. I think once it has been given, there's no restriction.

**Mr. Gregory:** If there is a residue, then theoretically it belongs to the candidate?

**Mr. Wishart:** I would think so. It's my opinion on this subject—it might not be worth much—I don't think there's any question about it. If you give money for a municipal candidate, once you put it in his hand or in his committee's hands they can do what they like with it.

**Mr. Gregory:** The reason I'm getting at this is, do you not see need for something in the legislation controlling this? I can see a situation—

**Mr. Speaker:** I think you're being very unfair asking Mr. Wishart this, because it isn't covered by this act.

**Mr. Gregory:** The reason I'm asking this is because I think maybe it should be.

**Mr. Wishart:** Having raised it in my letter to the party leaders about contribution of constituency funds under our act to a municipal candidate, I think I did suggest that the question be clarified. That's as far as I can go. I don't think it's for me to say you should or you shouldn't; I think if the Legislature wants to subsidize a municipal candidate, they should say no in an act. If they don't want this money we have raised under our act for that purpose, they should say so. I don't think I want to express the way to go.

I have expressed my mind in my commission. There were views expressed that were counter to mine. The final decision was to watch it, monitor it and report it to the parties.

**Mr. Gregory:** I think what's concerning me is that a situation could arise where a campaign is launched for Joe Doakes—there's nobody named Doakes in the room, is there?—and a large campaign is undertaken with large fund raising. They raise \$100,000—

**Mr. Wishart:** Municipal or provincial?

**Mr. Gregory:** Municipal. I'm bringing out a problem that I think should perhaps be controlled. They raise \$100,000 and deliberately spend only \$10,000. I suppose the candidate, win or lose, is \$90,000 richer.

**Mr. Warner:** You can do that provincially.

**Mr. Gregory:** No, you can't. Provincial funds belong to the party.

**Mr. Warner:** There's a very simple way to handle that.

**Mr. Gregory:** What's that?

**Mr. Warner:** The funds go from the provincial organization and they go back. Whatever you've raised comes back.

**Mr. Gregory:** No, I'm not talking about that. I'm talking about municipal funds.

**Mr. Warner:** Yes. That's what I'm saying. The funds go from the provincial organization to the municipal campaign and the excess goes back.

**Mr. Speaker:** No, no.

**Mr. Gregory:** You're mixing up what I'm saying.

**Mr. Epp:** There would be candidates who don't belong to any party.

**Mr. Gregory:** I'm talking about a candidate in a party. I realize I'm off base here, but I think it's important. There's a municipal candidate nominated and a group decides to raise funds for him. They belong to no party, okay? Certain candidates for a municipal election launch a huge fund-raising campaign to do it, raise \$100,000 and spend only \$10,000. The candidate then—as I interpreted what you said—owns \$90,000. It's a hell of a good way to get rich.

**Mr. Warner:** You can tighten that one up.

**Mr. Gregory:** I guess that's why I'm asking the question.

**Mr. Wishart:** I suggest, with respect, that you should debate this in the Legislature.

**Mr. Gregory:** Yes, okay.

**Mr. Wishart:** It's irrelevant to our estimates.

**Mr. Kennedy:** Could it be Hazel Doakes you are talking about?

**Mr. Gregory:** No, it's not Hazel Doakes.

**Mr. Epp:** I would like to thank Mr. Wishart for raising the important point of money being channeled to municipal candidates. I agree with Mr. Hennessy and other members that this should not be done. I find it morally somewhat difficult to accept where people would give money to a provincial party, provincial candidates, and then that money would be channeled to municipal candidates whom they might not know, might not support or whatever. I agree that this should be discussed in the Legislature and that loophole should be plugged.

I was just going to ask you one other question, having to do with additional parties perhaps being permitted to get public funds in the future. I'm wondering whether one of the criteria that might be established would be that a particular party that wished support would have to elect a specific number of candidates rather than just have people running for office. That might be a more appropriate way to ensure that they have a certain amount of public support before they get public funds for that kind of purpose. I'm just trying to pick your brains on it.

**Mr. Wishart:** You are suggesting that—

**Mr. Epp:** That they have a specific number of candidates elected before they are able to get public funds.

**Mr. Wishart:** Elected? I'm not sure that's quite fair. A small, emerging party takes some time to establish its worth and value and might not be able to elect members for a number of years or a number of elections. But I think, if they show good faith in nominating candidates, putting them in the field and supporting them to a certain extent, that's a fair evidence of their good faith and their earnest attitude and objectives.

The only place where public funds would be involved, of course, would be if the candidates got 15 per cent of the vote; then he'd get the subsidy. If he didn't, the candidate would not get anything. The only place where public funds then would be involved would be for payment of the auditor. You'd have a campaign return from the candidate and, if he had an association, there would be a campaign return from the association, as well as a party return. We'd have a fair amount of money to pay to a number of auditors, but it would be relatively small compared to the amounts paid to the other parties.

**Mr. Epp:** There is that possibility of expenditure irrespective of the amount of support that a candidate obtains?

**Mr. Wishart:** The conditions they established at the federal level was 50 candidates in the field. Otherwise, you're knocked off; you don't become a registered party.

**Mr. Epp:** Let me just clarify this: In my own constituency, for instance, if there were someone running as an independent or something of that nature, and he got five or 10 or 14 per cent, his books would still have to be audited?

**Mr. Wishart:** Oh, yes. Every—

**Mr. Epp:** So there is still that possibility of an expenditure of \$500, plus the association or whatever—it could be up to \$1,000 for one year?

**Mr. Wishart:** Every candidate's campaign return must be audited. Every return—candidate, party, constituency association.

One thing that is unfair to the independent, if I may make this observation, is that he has no party. He can't collect any money through here, because he's not organizing; there's no party on our records. He has to wait till the election and then step in as a single candidate.

**Mr. Epp:** He could have an association of sorts or a group or whatever, but not a political party?



**Mr. Speaker:** A committee to elect.

**Mr. Kennedy:** Just one question, if I may. I don't know if Mr. Wishart knows this, but where does the subsidy show up in estimates? Under which vote or section?

**Mr. Joynt:** Under services.

**Mr. Kennedy:** Is it under general government? I just can't readily identify it.

**Mr. Wishart:** I think you have the same material I have; it's on page 13.

**Mr. Joynt:** Under services.

**Mr. Wishart:** Under services.

**Mr. Kennedy:** Where? Under vote 201, item 11?

**Mr. Chairman:** Yes, I think that's it.

**Mr. Kennedy:** Where? Only \$207,000? That can't be it.

**Mr. Wishart:** Not the normal subsidies for a general election; that would be for auditors' subsidies.

**Mr. Kennedy:** You've been close to that yourself, Elie.

**Mr. Wishart:** That figure is practically all related to auditors' subsidies, not candidates' subsidies.

**Mr. Kennedy:** It's the candidates' subsidy; maybe it isn't in this book at all.

**Mr. Chairman:** But there's no election.

**Mr. Wishart:** We haven't got it in for 1978-79, because we can't ask you to vote \$3 million when we don't know your expenses.

**Mr. Kennedy:** Get the Premier to call an election.

**Mr. Nixon:** We'll have to have an election just to hand it out.

**Mr. Chairman:** John Lane was next. But, Elie, did you have a fast question?

**Mr. Martel:** I just wanted to ask, talking about the parties, do you officially recognize the heritage party for northern Ontario?

**Mr. Wishart:** The Northern Ontario Heritage Party? Yes.

**Mr. Martel:** Is that provincial in nature?

**Mr. Wishart:** They filed their petition, we examined it, found it in order and they were registered. They haven't run any candidates yet, so far as I know.

[11:15]

**Mr. Martel:** No.

**Mr. Nixon:** Better keep your eye on Sudbury.

**Mr. Martel:** They were going to run one in Sudbury I think but—

**Mr. Wishart:** It sort of originated in North Bay.

**Mr. Martel:** Yes, I know the fellow well. The question is, that's a regional party. It's not a provincial party.

**Mr. Wishart:** Is it a regional party?

**Mr. Martel:** Yes.

**Mr. Wishart:** It's a provincial party as far as we're concerned.

**Mr. Martel:** As I said, I raised the question because they are regional in nature.

**Mr. Wishart:** I guess you could regard them that way, but they're a provincial party under the act.

**Mr. Ruston:** A lot of parties are like that.

**Mr. Martel:** I can see somebody from Windsor running on that label.

**Mr. Kennedy:** Just on the point I asked about last year's book, which was printed the end of the fiscal year, March 31, 1978; maybe Mr. Miggiani knows. There was nothing in it because nobody on this side knew there was going to be an election called. I don't know whether anybody else did. So where did that figure on members' subsidy show?

**Mr. Chairman:** Mr. Wishart mentioned earlier that it would have to come by way of supplementary estimates, but it doesn't show because it's not—

**Mr. Miggiani:** If there is no election, they don't submit anything.

**Mr. Kennedy:** That's on a supplementary?

**Mr. Miggiani:** If there was no election they do not submit anything.

**Mr. Kennedy:** But what about when there is one and the estimates are printed before the election? Last year's was June 1977, the estimates for 1977-78 were printed early in the year, so there's nothing in the regular estimates for such an entry.

**Mr. Miggiani:** It would appear under services.

**Mr. Kennedy:** In one of these books? In this book? How could it? But what year?

**Mr. Gregory:** Three thousand, five hundred dollars.

**Mr. Kennedy:** What year?

**Mr. Ruston:** Three million.

**Mr. Kennedy:** It would have to be through supplementary estimates. It's not in either last year's book or this year's book. How could it be when there's an election announced 37 or 40 days—

**Mr. Chairman:** I know your question.

**Mr. Joynt:** If I might speak to this matter, the budget for audit fee subsidies and subsidies to candidates, although we've proposed that it should be a statutory provision, is

shown under the services provision. This figure that is before you in the current estimates includes \$90,000 only for audit fee subsidies of annual returns filed by constituency associations. We anticipated in preparing this year's budget that we would have all the subsidies paid for the candidates relative to the 1977 election. Unfortunately, we were a little bit optimistic and we will have some supplementary estimates going through ultimately. We'll show approximately another \$200,000 required to meet these subsidies that carried over into this fiscal year. But at the time we prepared the original estimates we anticipated we would have had them all dealt with.

In 1977-78, after we knew of the election and after we got the approval for funds, that figure was \$2,713,000 out of the services, as opposed to the figure that you have currently.

**Mr. Kennedy:** So it is through your office that supplements are requested?

**Mr. Lane:** Most of the things I was interested in have already been discussed. I was rather amazed to find that constituency associations were contributing to municipal candidates. Out in my area, Mr. Wishart, in all the small towns and so forth, we don't run along political lines in municipal election. I just never thought of that happening, I suppose. It seems rather strange to me that someone who might want to support me or some other candidate on a provincial level, would have some of his money used to elect somebody on a municipal level whom he wouldn't support even if he were asked. It seems to me that this has to be tightened up.

**Mr. Wishart:** We reported it several months ago. I was going to say several weeks, but several months ago we reported that to the party leaders and I think we expressed some concern, although the commission said we'll watch it and we'll report it, we have no authority to stop it.

**Mr. Lane:** I can appreciate the act doesn't prevent it from happening but it was sort of strange to me that it had happened. I had never thought of that happening. It was a new aspect.

**Mr. Wishart:** It hasn't become very serious yet in so far as numbers of situations are concerned. I think it is under a dozen. I think all parties have been indulging a bit; some constituency associations representing each of the three parties has on occasion done this.

**Mr. Lane:** I think it should no longer be a grey area. It should be spelled out to declare what is right and what is wrong. Everybody

should understand, when they give money, whether it's going to be used for other purposes or not. That's very wrong, in my mind.

**Mr. Wishart:** I don't hesitate to say that in my view it was wrong. That was not the view of the commission, though.

**Mr. Lane:** The other thing that Mr. Nixon brought up a while ago: the act apparently provides for up to \$1,000 for the accountant fee in an election year and up to \$500 in a non-election year. Are there cases where the accountant turns around and bills a constituency association for additional moneys over that amount?

**Mr. Wishart:** Yes. Not too often does an accountant's bill to the constituency association or the candidate exceed the subsidy amount. Generally, I might say it matches the subsidy amount.

**Mr. Lane:** They go for the bundle.

**Mr. Wishart:** Occasionally, there have been auditors' bills where I think they have been justified. There has been a lot of work for an auditor to do. He practically had to go in and be a bookkeeper and dig up the records, receipts and bank statements—in which case he billed the constituency association or candidate more than the subsidy. Of course, we only request and pay the subsidy amount. But those cases are very few.

**Mr. Lane:** That would be up to the constituency association whether they paid him or whether they didn't. Under the act, he is entitled to so much money, and he has already got that money. If they want to pay him more, so be it.

**Mr. Wishart:** The constituency association is the client of the auditor. He doesn't bill us, he has to bill the association. They can refer to us the subsidy up to the amount allowed, that's all.

**Mr. Lane:** Not that I ever intend to be involved as an independent, but I'm just wondering: you brought up something that I hadn't thought about. This is of interest to me—I haven't been on this committee before. An independent is really independent, as you have pointed out. He or she doesn't have an association or a party, so to speak, to accept donations. The act doesn't really apply, in other words.

**Mr. Wishart:** I think it is difficult for a party man or woman to get overly sympathetic to an independent. Looking at the thing objectively, the poor independent gets the short end of the stick. He has no party and no association. He can't do a thing.



**Mr. Lane:** It doesn't cost the government anything.

**Mr. Wishart:** No. Maybe that's not very democratic. I say that philosophically.

**Mr. Lane:** Assuming that I want to support an independent then, can I get some of my tax credit on my donation too?

**Mr. Wishart:** When he is nominated as a candidate, then you can give him some money.

**Mr. Lane:** And I can be credited with it on my—

**Mr. Wishart:** Yes.

**Mr. Hodgson:** But if he gets 15 per cent or more—

**Mr. Wishart:** If he gets 15 per cent, he gets the subsidy. But he has a job getting the 15 per cent because he can't get out there and work with any money until a writ is issued and he's nominated.

**Mr. Chairman:** Thank you, Mr. Lane and Mr. Wishart. Shall item 11 carry or are there further questions?

**Mr. Speaker:** Just one sequel I would like to put on—the need for doing something so that we can react to the recommendations made by Mr. Wishart. It is incumbent upon us to do something. The question raised by Mr. Kennedy highlights how important it is that we, as lawmakers, react to recommendations or amendments to the act put forward by Mr. Wishart and his colleagues.

In the first year of the operation of the election expenses commission when a substantial amount of money was required, it came out of the consolidated revenue fund rather than out of the act. The provincial auditor said this is a no-no, that it should be statutory. The act has yet to be amended, so that's why every time the election expenses commission requires funding to carry out the intent of the act, it has to come to the Board of Internal Economy for supplementary estimates when, in fact, they should be statutory, and that is the substance of one of the recommendations that has been given to us for action by the House.

No action has yet been taken and that's why they have come by way of estimates. It can't come out of the consolidated revenue fund. That's why we have a responsibility to clean up our act, if I might put it that way, and make statutory the funding of the operation of the election expenses commission and we have yet to do that.

**Mr. Wishart:** Mr. Chairman, could I ask one question now myself? We submitted to you not only these estimates, the general estimates, but also some time ago our supple-

mentary estimates. Why do we have to make another trip to deal with them? Why can't you deal with them by one bite of the cherry instead of two?

**Mr. Speaker:** That's the way the business of committees has been ordered. I think you make an excellent point. I have the supplementary estimates right here but the way in which this format is dealt with, you can't talk about the supplementary estimates and I have them before me.

**Mr. Wishart:** I know, and I have them and you have them, you all have them, or should have. Anyway, Mr. Chairman, if I might suggest that where you have the supplementary sometimes previous to this hearing and you have our estimates that they all become one estimates. I think it would be fitting if we could deal with them in future perhaps in one examination.

**Mr. Chairman:** Thank you, Mr. Wishart. Just before we vote on this item though, just for the record, can I get this clear? You have raised a number of important points. You have communicated some of these concerns giving the policy matters to the various party leaders and I think to the Speaker—not to the Speaker, the party leaders. It was felt, though, and it was suggested here earlier, that at one of the next meetings of the Board of Internal Economy the disposition of these matters which are still in abeyance will be addressed. I still find that hanging a little bit. After the board has discussed it, to whom will the board report back? That's an open question.

**Mr. Speaker:** It would be my hope that we send it to the government House leader.

**Mr. Wishart:** Mr. Chairman, I suppose the decision or the responsibility as to what material or what business comes before the Legislature is that of the government.

**Mr. Chairman:** The point has been made that following a meeting of the board when these things are addressed, it will be communicated again to the government House leader.

Item 11 agreed to.

On item 1, Office of the Speaker:

**Mr. Speaker:** I think our requests are extremely modest, to say the least. There's an increase of \$22,200 and they are all odds and sods. The figure of \$1,800 is the effect of the 1977-78 salary revisions. There's \$1,700 for merit increase. There's \$3,000 for teachers associated with the pages program. There's \$3,000 for GO-Temp transfers that we are responsible for but were the responsibility of another vote, so they are all very very modest increases that reflect the cost of doing busi-



ness and I would be happy to answer any specific detail. As I say, it's an increase of \$22,200 and I would be prepared to answer any detailed questions that you may have to put.

[11:30]

**Mr. Epp:** I was wondering whether the Speaker might clarify the GO-Temp transfers that he alluded to here? Is that a provincial responsibility for transferring employees? Would you elaborate on that?

**Mr. Speaker:** If the office finds itself inundated with work, and if somebody takes leave, it means we have to have somebody to fill the responsibility.

**Mr. Miggiani:** This is part-time help. The reason they appear in salaries is while at one time they were regarded as services during this particular estimates we were instructed to transfer these funds into the salaries. That is what they are. They are actually part-time help.

**Mr. Epp:** When you obtain part-time help do you get them from other ministries?

**Mr. Miggiani:** Generally the departments would call GO-Temporary to provide them with the necessary qualifications for personnel. And then they would send us the bill.

**Mr. Fleming:** GO-Temp is an agency or a spectrum of the Civil Service Commission, and provides temporary help to various ministries, plus the assembly.

**Mr. Epp:** Let me ask one further question. Any temporary employees that you get, all of them are obtained through GO-Temp? They are not obtained through an outside organization?

**Mr. Fleming:** No.

**Mr. Miggiani:** Not necessarily.

**Mr. Fleming:** It would be very seldom that we would obtain them from the outside.

**Mr. Epp:** On what occasions would you get them from outside? What would be the reason for you to go outside the GO-Temp agency in order to get help?

**Mr. Fleming:** I would think they would be extremely seldom—maybe in a case where somebody was needed absolutely immediately and had some special skills. I would think this might be in the area of Hansard, for instance, in connection with transcribing, but I can't think in our normal day-to-day operation of any occasion when we would go outside the regular GO-Temporary service.

**Mr. Epp:** Do you have to pay a tariff to GO-Temp in order to get employees?

**Mr. Fleming:** No, we don't.

**Mr. Epp:** I realize there would be a book-keeping thing.

**Mr. Fleming:** We are billed an hourly amount, and we pay it. This is all done through the personnel office of the assembly.

**Mr. Epp:** If employees were obtained through an outside agency, would you pay a tariff there?

**Mr. Fleming:** I would think so.

**Mr. Miggiani:** We would have to pay the agency direct. We don't do this.

**Mr. Epp:** You don't do that?

**Mr. Miggiani:** No.

**Mr. Speaker:** Mr. Wilson is here, and he is the person who is directly responsible for recruiting.

**Mr. Epp:** I am sure Mr. Wilson has heard my questions. If he can elaborate on any of the questions that I have asked—

**Mr. Wilson:** We do pay a service charge to GO-Temporary. This covers the administration of the actual service. It amounts to about 10 per cent of the salaries we pay. We prefer to use GO-Temp because it is a much more reasonable service, and much more attuned to our requirements.

We have had contacts from Office Overload and similar-type organizations, but they are a very expensive proposition.

**Mr. Epp:** Expensive to what extent?

**Mr. Wilson:** Their administrative charges—the charges to the office, really.

**Mr. Epp:** What would they be, 25 per cent?

**Mr. Wilson:** I really couldn't say. They don't reveal this very freely. But it is somewhere in that neighbourhood I would think.

**Mr. Lane:** Mr. Speaker, in describing the vote you mentioned the moneys paid to the teachers for the pages. I didn't recall you mentioning the moneys paid to the pages. Is that in that vote too?

**Mr. Speaker:** It is a part of it, yes. We have increased the amount we pay the pages to, I think \$7.50 a day from \$5 a day. We want to go up; it is our intention to bring it up to \$10 a day but we didn't want to do it all in one lot.

I think our supplementary estimates that aren't before us will reflect the increase we hope to give to the pages, because it is costing them more to live in Toronto and there isn't a complete subsidy for their travel as yet. Really, they spend all they make and more to travel to and from their homes while living in Toronto. We felt we did have a responsibility, and the increase from \$5 a day to \$7.50 a day is in here someplace. We hope,

in the next fiscal year, to bring it up to \$10 a day. We are reviewing the cost of travel and we hope we will be able to provide them with additional subsidies for their cost of travel.

Getting back to what you said, as you know, we implemented some instruction in French within the past year and we had to hire the services of a French teacher. We have increased the payments to Mr. Barnard who has been with the program for a number of years, and that is all reflected in the overall increase.

**Mr. Lane:** The increases of \$2.50 a day are reflected here too, are they?

**Mr. Speaker:** Yes.

**Mr. Lane:** I don't know how you manage to stay down so low with your increases. It seems to me you have done pretty well to work all that in to such a small increase.

**Mr. Martel:** Good socialist planning. We would make him Treasurer.

**An hon. member:** Seven-fifty a day for everybody.

**Mr. Epp:** I was just going to compliment the Speaker. After Mr. Martel's comments, I am a little more reluctant.

**Mr. Speaker:** I understand the number of pages who are coming into the Legislature are here for a shorter stay, I guess, since you became Speaker. Is that correct?

**Mr. Speaker:** No, that isn't correct. But as we came back so late in the fall and there's an eight-week period we are working on from October 23 to, hopefully, December 15, it was just a little bit too much for one group. We find that eight weeks down here at that tender age of 11, 12 or 13 is a bit too much. We thought, since we had so many applications, rather than keep them for the normal six-week period, we would cut the eight-week period in half and have two groups. We were able to bring a lot more people into the program.

As you know, it is an extremely popular program and I am getting letters from members every day saying, "This young person is interested in becoming involved in the page program." This is a one-time effort of two four-week periods to involve more people in the program because we thought an eight-week period was a bit too long for them. Normally, we try to keep it to about six weeks.

**Mr. Epp:** I was going to say that in your efforts to try to involve more people, I certainly heartily endorse it because I think it is, as you say, a one-time experience for these kids or teens. I am sure they appreciate it.

I think that is an excellent idea to involve more of them.

**Mr. Hodgson:** Have you any plans, Mr. Speaker, to keep it to four weeks to involve more?

**Mr. Speaker:** You have to look at the number of weeks we have to deal with. If, say, we come back here towards the end of February and run to the end of June, then we have X number of weeks. How can we split that up into, say, five- or six-week periods to involve the maximum?

It depends entirely on the amount of time you have at your disposal. You have to use your own judgement. That is what we have tried to do in this eight-week period to involve twice as many. We had another 22 students in for a four-week period rather than keeping 22 here for eight weeks, so we just doubled the number of people.

**Mr. Hodgson:** An excellent idea.

**Mr. Chairman:** Just one small thing and this has got to rank as the smallest thing that has ever been said, but I just have to mention it.

I had occasion to go into the pages' room or the facilities a week or so ago with a young chap from my community. He was showing me the little ping-pong room. There are more holes in that ping-pong table than there are in some roads in the borough of North York and they have one cracked ping-pong ball. These kids are sitting around for two hours and, honest to God, it's embarrassing. I lost a game too. I'm a little ticked off about that.

**Mr. Martel:** That was a good day.

**Mr. Warner:** That's why you're upset.

**Mr. Chairman:** I think you can buy six ping-pong balls for a buck. I don't know who looks after that sort of thing, but it's an old table and there are two old chewed-up racquets and one broken ping-pong ball.

**Mr. Nixon:** Donations would be all right.

**Mr. Chairman:** I gave them a buck, actually.

**Mr. Spencer:** This is the first I'd heard of it. I do go down occasionally to monitor what's going on in the classroom. I don't spend as much time as I should, possibly.

**Mr. Chairman:** We'll make a deal for a new table.

**Mr. Speaker:** They will get a new ping-pong table and sufficient ping-pong balls and it will be brought to the attention of the Sergeant at Arms and the mistress of pages.

**Mr. Gregory:** Who will order the pool table?



Item 1 agreed to.

On item 4, Hansard:

**Mr. Speaker:** Mr. Brannan is here and there are some very exciting and dramatic things happening in Hansard. Perhaps you would give us a rundown, Mr. Brannan.

**Mr. Nixon:** If they can improve the quality of the prose—

**Mr. Brannan:** Thank you, Mr. Speaker. Yes, we are getting into areas that are new to us—word processing and, hopefully, computer typesetting. We have an experiment under way which we hope will help to reduce at least the escalation of our printing costs in the future, and also improve the quality of the appearance of our transcripts.

As you know, when we don't go to formal printing of a committee we merely reproduce the duplicated form and it has a lot of handwritten alterations on it. The object of this exercise will be to produce a perfect copy before we go to the actual printing out of the transcript. That may take us some months, because we have to train staff and we have to experiment with different types of equipment, but I do hope that during 1979 we will be able to implement that scheme.

We were prompted primarily by our escalating printing costs, not that we're not getting a bargain. I think we have a very good contractor and we hope to include our present contractor in our plans to get into the typesetting end of the business. Like Hansard itself, printing is very labour-intensive and we hope by doing the initial keyboarding in the Hansard office, we will be reducing the typesetting costs eventually. I think that sums it up.

We also hope to have additional committee rooms in the coming year, which will help us. We've been meeting in some very small corner rooms and getting some very difficult recording jobs which make it almost impossible to transcribe, but with the acquisition of room 151 we should have three virtually permanent committee rooms and the occasional use of room 228. We hope we will never have to go into the smaller and less convenient rooms—convenient both from the point of view of the members and our own facilities and services.

**Mr. Speaker:** You may elaborate a little bit more on room 151. We've got the domino theory working around here. When the Office of the Assembly vacates room 151, it will be turned over for possibly the best committee room we will have ever had here. Peter, you've been in negotiations with the Clerk's office and with the architects in

Ministry of Government Services. Perhaps you might just tell the members what kind of a committee room they will look forward to, hopefully, by the time they return in late February or early March.

**Mr. Brannan:** Mr. Chairman, the object of the exercise is to provide a room which can have a clear floor so that it can be used for other functions, with the exception of the console, which will be permanent because of the problems of having a movable console.

[11:45]

The actual committee tables themselves are an ingenious design that we are cribbing from Ottawa, as a matter of fact. We went to Ottawa to see their conference room setup and they have a very ingenious design there. Their tables are normally rectangular but they also have some pie-shaped sections which enable them to go around and create horseshoes or circles or ovals or whatever. I don't know that we'll be able to get into that kind of extravagant situation because we don't have the space. But we will be able to manipulate these tables and set them up in just about any arrangement we require, whether it be a square or a U or an E or D with witnesses.

The tables will be, as you say, almost like dominoes. We can put them end-to-end and connect our electronic services through the tables so that we do away with all our wires travelling around the floor. We could simply plug right in through connections in the floor of the committee room. Each table will accommodate two members, each with his or her own microphone and one loudspeaker.

**Mr. Martel:** The mike won't be able to fall?

**Mr. Brannan:** No, it won't fall over and you won't be able to play with it, I hope. We're going to have it firmly fixed in position so that it should be at the desired angle and so on. It is very difficult at the moment, as you know. You don't have enough microphones for many of your committees and you're pushing them backwards and forwards. Also, these tables are very poor. Every time you pour a glass of water it sounds like Niagara to the transcriber, whereas the new tables will be cork covered with vinyl. They should be sound- and shock-absorbent, which will enable the sound to be confined to the actual speaker rather than including the shuffling of papers and the water glasses and jugs and so on.

I think you will find them a desirable asset in our new committee room. While we're about it, we are making enough of these



tables to supply the other rooms as well. We will have identical services and committee tables in all four committee rooms.

**Mr. Chairman:** I think it was yesterday in question period that the member for Grey-Bruce (Mr. Sargent) raised a question that some of the recording equipment in use in the building was manufactured in Korea, or something to that effect. With the \$500,000 that is budgeted for supplies and equipment is there any kind of a policy that, when possible, it should be purchased in Canada?

**Mr. Brannan:** We certainly buy Canadian wherever we possibly can. The computer equipment we are buying is a Canadian product. The microphones, I must confess, are usually West German, because frankly we need all the help we can get. We experiment with different kinds of microphones and we pick the best microphone we can find. As a matter of fact, our committee microphone—which is that model there—is the identical microphone to the one they are using in Ottawa. We find it is the best microphone for the job. It is an AKG and it is a West German product. But generally we do buy Canadian as much as we possibly can, wherever we can.

**Mr. Warner:** I was going to ask the same question about the new committee room. I just want to make sure I've got it clear: The new setup for room 151 will also be in committee rooms one and two and room 228?

**Mr. Brannan:** That's right, Mr. Chairman. They are portable tables and we will hopefully store them somewhere else in the building and then we will bring down the required number of tables for each committee setup. It will be an identical table, with different arrangements for different-sized committees.

**Mr. Warner:** That's good. Some of this has been discussed, not in the same detail, in the members' services committee. Part of it was that we made an unsuccessful effort to get room 228 turned over to the Speaker's office so that it could be a permanent committee room. We haven't been successful in that venture but as long as the furniture is in there maybe we'll have a better guarantee of getting that as a committee room.

The only other thing is not really a question; it's simply a comment. As a member of the assembly I have appreciated the efforts of Hansard. The Hansard office is always efficient and extremely helpful. I feel they do a superb job. In committee work, I felt a little sorry for them this last summer with all of the activity around the building. I felt anyway that it was very difficult for them to

cover all committee meetings and churn out the Hansard copies.

What we used in our committee—and perhaps it is a good recommendation for a lot of committees—was to ask for just the Instant Hansard for the use of our committee, rather than the final printed version. There is some economy there, but also it perhaps eases the burden a little bit for the Hansard office. I don't know if it does, but it is a convenient way for the committee to function and saves a bit of money. I would like to thank everyone on the Hansard staff for the way they function to order.

**Mr. Brannan:** Thank you very much. I appreciate that.

**Mr. Warner:** Mr. Chairman, I wanted to ask you a question. I was absent for a moment. Did we pass item 11?

**Mr. Chairman:** Yes, we did, and in your absence, I think it was probably the next best thing to a motion, the Board of Internal Economy will address itself to the questions of policy raised and will report to the government House leader.

**Mr. Warner:** I'm sorry, because had the item not been passed and I was present I was going to move a motion to have them report back to the standing general government committee, so we would be assured that there would be a report back which could be dealt with by the committee. However, the item has been passed.

Item 4 agreed to.

On item 5, sessional requirements:

**Mr. Chairman:** I wonder if I might ask a question here? I see transportation both under "Hansard" and under "Sessional requirements" is much higher in this item 5. My question had to do with the taxi service that quite properly is provided to the Hansard staff when they leave at night. Which item would that be in? This one—sessional requirements?

**Mr. Speaker:** Sessional requirements is a catchall. If you don't know where to put a particular item for the Office of the Assembly you call it sessional requirements. Joe, would you run that down?

**Mr. Miggiani:** I thought that was the administration office, Mr. Speaker. Sessional requirements is the area where we introduce the cost of the printing of the bills, which is \$550,000, exactly the same amount we introduced last year. Sessional requirements also has a sum of money in there, \$35,000, for the mailing of these bills. We also include here some miscellaneous photos that the members and the pages take after an election. Also,

the cost of the members' daily coffee service and the Horse Guards at the opening of parliament is included in this item.

The majority of the appropriation in this item is, of course, the committees. In these particular estimates that you are approving, we have introduced \$586,000, which was a guesstimate, as at the time we prepared the estimates we had no idea what the actual requirements of the committees would be. As a matter of fact, the supplementary estimates now introduce the actual budget for these committees. This really is what is in the sessional requirements.

**Mr. Chairman:** What is the annual taxi bill for Hansard staff? I'm thinking of late at night; maybe they use them at other times.

**Mr. Miggiani:** That would be in Hansard. I will see if I have got at least an estimate on that.

**Mr. Speaker:** It is shown as \$42,500 under the Hansard vote for transportation and communication.

**Mr. Brannan:** Excuse me, Mr. Chairman, that is under "Travel." It is \$7,500 total.

**Mr. Miggiani:** It's \$7,500 for the travel, and the \$35,000 is the postage. That's the difference between \$7,500 and \$42,500.

**Mr. Chairman:** Under "Sessional requirements," \$177,000; there are no taxis in that?

**Mr. Fleming:** No, no. The bulk of the sessional requirements is legislative printing, select committees, and mailing. There's very little other than that; just small amounts.

**Mr. Chairman:** I'm just curious. Is there one taxi firm that has the contract?

**Mr. Fleming:** No.

**Mr. Chairman:** It's not that much money I guess, but I just wondered if these guys bid on these things.

**Mr. Fleming:** No. This would be the chits from I would think either Metro Cab or Co-op or somebody of this sort. Some of the rest of the money under "Hansard" would actually be for Hansard officials attending Hansard conferences in the country. So it would be a very small amount.

**Mr. Miggiani:** Mr. Chairman, the bulk of that is \$142,000 for the transportation and communication of the committees.

**Mr. Chairman:** I see.

Item 5 agreed to.

On item 6, members' indemnities:

**Mr. Fleming:** That covers indemnities and allowances which we're budgeting \$3.4 million for. That covers OHIP and group insurance for members—\$76,000. It covers transportation and communication. That in-

volves all of the travel arrangements of any sort for members, which would be \$1,156,000. It involves services—\$27,500—and supplies—\$373,200.

**Mr. Ruston:** Mr. Chairman, does this include pensions for previous members?

**Mr. Fleming:** No. That is under a different item.

Item 6 carried.

On item 7, members' support services:

**Mr. Fleming:** Members' support services refer entirely to the salaries and benefits for members' secretary-assistants. As you are aware there is a salary level now for members' secretary-assistants which is in five steps from \$11,454 to \$15,544. In addition to that they do receive benefits that would approximate those given to the staff of the assembly or to a civil servant, including a pension which comes under the OMERS plan—the municipal employees' plan.

There is a process where the individual caucuses, I believe in co-operation with the member, determine what level the individual secretary-assistant should be placed at in that range. The amount is reviewed by the Board of Internal Economy once a year around April, and the new increase for the secretary-assistants would be reflected as of April 1, 1979, taking into account the increment which would be given to the civil servants, which I think normally is awarded January 1.

**Mr. Gregory:** The income replacement for members' assistants' sick pay—am I right that it doesn't commence until six months after the illness begins?

**Mr. Wilson:** That is the long-term income protection, Mr. Gregory, yes. There is a waiting period of six months.

**Mr. Gregory:** There is no short-term income protection?

**Mr. Wilson:** This has been recommended.

**Mr. Gregory:** How about the civil service staff themselves? Do they have a short-term plan?

**Mr. Wilson:** Yes, they do. It is called a short-term sickness plan. It provides for six days per year at full pay, and the balance of six months—for 124 working days—at three-quarters pay.

**Mr. Gregory:** Is this something that should be recommended possibly to the Board of Internal Economy to be looked at? If a girl is sick, six months is a long time.

**Mr. Fleming:** At the moment I think individual caucuses have their own arrangements.

**Mr. Wilson:** It was recommended.



**Mr. Miggiani:** It is discussed when we meet with the caucus managers. I talked to them about it two months ago. They were supposed to be looking into it.

**Mr. Fleming:** It hasn't been taken before the Board of Internal Economy.

**Mr. Gregory:** No, but it perhaps should be. [12:00]

**Mr. Warner:** Our situation is different in that regard. Our employees have the benefit of collective bargaining, so the terms and conditions of work are spelled out, including sick benefits, so that where an employee experiences a short-term or lengthy illness, with the proper papers from the doctor and so on there is coverage, so they don't suffer financial problems.

I simply wanted to express once again my concern that at the time when I understood we were to have reclassification it really never occurred. We've had some increase in salaries but it was not a reclassification. Some of our employees actually did not experience a salary increase, or in some cases it was quite minor, because of the step process that was brought in. We had been led to believe that we were going to be reclassifying employees as there was a recognition that the job function had changed considerably from 1970 or 1971 to 1977. However, that did not occur, and we're carrying on from there.

I would commend to the other caucuses that our experience, as the management side, in our collective bargaining situation has been a very positive one and a very good one. Our employees enjoy an equal opportunity in terms of their salary and working conditions. I would highly recommend to the other caucuses that they could enter into a collective bargaining situation with their employees and they might find it a very positive and rewarding experience, as we have in our caucus.

Item 7 agreed to.

On item 8, caucus support services:

**Mr. Fleming:** The caucus support services refer to the caucus unconditional allowance. This means that each caucus receives on behalf of each member a sum of \$7,000 per annum. For the opposition caucus and for the third party caucus there is an amount of 40 per cent of the \$7,000 given for the leader's staff, to permit the leader to have whomever he actually needs to serve him directly.

In addition to that there is now a research allowance. That is also based on a per-member rate and determined by the Board of Internal Economy. At the moment that stands

at \$5,500 per member for the government caucus. I believe that is based on the parliamentary assistants and the members in the caucus, but not the ministers. There is \$7,500 for the official opposition, based on each member, and for the third party there is \$6,500. This is an amount which is reviewed annually by the Board of Internal Economy and in which the House leaders concur.

**Mr. Martel:** I certainly didn't concur. I was simply outvoted.

**Mr. Warner:** What is the rationale for the difference?

**Mr. Fleming:** Originally this went back to the Camp commission, when an arbitrary amount was set at that time for the opposition parties and each was given a research allowance consisting of a certain figure. There was no research allowance at that time for the government caucus, but over the past four years, since the Office of the Assembly came into being, through a process of negotiation and consideration of caucus needs, the amount has changed from time to time.

**Mr. Warner:** It doesn't strike me as being equitable or fair in any way. If we approach it from the aspect that first of all, aside from cabinet ministers, each member in the assembly is a member of the assembly, an individual who wishes to do research and wishes to carry out his functions as best he or she is capable of doing, then we should have some equal footing in that matter.

For example, I would take it that there should even be some provision that if an independent were sitting in this assembly, the independent would have some ability to do research and to fulfil his functions. The amounts just aren't fair. There should be some sort of levelling.

I know my good colleague from Sudbury East has more knowledge on the subject than I do. He has been dealing with the matter for a long time and might be able to shed some light on it. Just from my first glance at the figures, it does not strike me that they are equitable. They may not even be equitable for back-bench government members either, I don't know.

**Mr. Chairman:** Before we get to that pool of knowledge from Sudbury, your colleague, Mr. Epp.

**Mr. Martel:** I just wanted to respond to that, that's what I'm here for.

**Mr. Epp:** I was going to ask a related question. I have heard rumours from time to time that members may in future get research assistance or something of that nature. I'm just wondering if anyone can elaborate on it.



**Mr. Chairman:** I'm sorry, Elie wanted to respond earlier.

**Mr. Martel:** I want to respond to both David and Mr. Epp. David, I'm in complete agreement with what you said; in fact, it goes deeper than just the research assistants. I think the whole problem stems from the way the amount introduced for leaders was drafted. I think, and my colleagues on the Board of Internal Economy know my opinion, that that's inequitable.

I think there has got to be some formula taken from the Premier's office itself. I'm not saying that the Leader of the Opposition or the leader of the third party should have the type of backing that the Premier as, but for key personnel and, in addition, secretarial staff, the same amount of money should be made available to the Leader of the Opposition for key personnel as is made to the Premier and the same for the leader of the third party.

In other words, if the government has \$34,000 for an excellent PR man, it has been my opinion and continues to be my opinion and what I will bring forth again at the next Board of Internal Economy meeting when we review this, that the leader of the official opposition and the third party should have the same amount of money for their PR person. In other words, I think there would have to be a breakdown and a sensible arrangement made so that all parties are treated equally.

The same applies to research. I know that Bud and I worked on that trying to get the amounts equal. The argument was for research, and you have put your finger on it: All members in this Legislature should be entitled to the same amount. There was a difference of opinion on the \$7,000, as to \$6,000, or \$7,500 and \$6,500 which I objected to strenuously. But because it had been adopted at the inception of the Board of Internal Economy, that's the way it was insisted it remain.

I think that's a phony argument. I think it's a distortion of the right of every member to be treated equally. I think Bud agrees with me on that.

**Mr. Gregory:** I do agree with you on that. I thought it was a bit of an injustice that—we're talking about private members, not ministers; ministers are deemed to have their own support staff and they don't need those services. But I can't for the life of me understand why there is a difference between a Liberal private member, an NDP private member and a Conservative private member, from the standpoint of research.

**Mr. Martel:** That's the position I took, as you recall.

**Mr. Gregory:** I throw this in again, Jack, that in many cases our caucus support group are required to do things on behalf of ministers, even though they are not allowed to pay for them, such as newsletters and that sort of thing.

**Mr. Martel:** That's the second point I wanted to make. So I start with the leaders, because I don't think it is equitable there. There just has never been any rationale. It started out as a lump sum of money. We got it increased by 10 per cent. You know, when you are playing around with percentages, the person at the bottom gets the least increase. We couldn't budge that one, we couldn't budge the one on research, but it was recommended by Camp, it certainly was recommended by the select committee that Bud and I served on, that each back-bencher have a researcher.

I must say, Mr. Epp, the strongest opposition to that comes from within your caucus through your House leader. We feel very strongly—at least my colleagues and those of us who sat on the select committee—it was a unanimous report that each member should be entitled to a researcher if he is going to do the job.

**Mr. Gregory:** Elie, I was not on the select committee for the vote and I don't entirely agree with your point on that.

**Mr. Martel:** No, all right, but I'm just saying that the select committee—

**Mr. Gregory:** I just wanted to make it clear that we are not unanimous on that point and we are not necessarily unanimous on the other point regarding the leaders.

**Mr. Martel:** I didn't intend to imply that you were in agreement with the leaders. I just think if fairness applies it applies all the way along the line, that's all, and that we should look at it seriously in comparison with a number of positions that are within each office and determine how many staff each person is allowed in some relation to what the Premier gets, rather than the \$7,000 per member and then you take 10 per cent of that or whatever it is. That's just not an adequate formula if we're talking equality in the services of the aides to the leaders of all three parties.

The select committee recommended a researcher for each member, and you'll notice in the plans being prepared by Mr. Henderson, through Government Services, there is really a space being allocated for a researcher. How long that's going to take to come will be dependent on how long all

three parties play around with it. Some feel it's too big an expenditure to undertake at this time. The time has never been ripe in my 11 years for anything for back-benchers, so I never worry about it and simply push ahead. I think if we're going to be adequately informed in the 1970s and into the 1980s as it gets more complicated and more complex, you're going to have to have research staff to assist you in whatever field you might be a critic.

If you want to get meaningful and knowledgeable debate going I think that type of research might be available. I can assure you I attempted to get, when we last met, a research allowance for every member. It kind of floored some people on the board when I put forth the figure I did at about \$15,000 per researcher, but I think it has to come and it's long overdue.

**Mr. Gregory:** I think if the Legislature is sensitive about introducing a researcher for every member what it could do is have one for every two or three members as a phase-in policy and do that over a few years. It wouldn't seem quite as blunt to the public if that were done, I hope that is considered in the future and maybe something will develop from it.

**Mr. Speaker:** I would just like to add a caution to that. When you decide on this, you want to keep in mind that there is only a limited amount of space in this building assigned to the Office of the Speaker. We are bulging at the seams now. If we're going to spend the kind of money it is expected that we will require to provide typical suites for members in this building—in the most recent assessment that was made for us by the Ministry of Government Services, there were still some 20 members of this Legislature who would not enjoy a suite in this building—the amount of money that it is expected would be required to provide these typical suites in terms of 1978 dollars would be something like \$3 million.

We're still dealing with the same configuration in this building basically and we're dealing with an old building. Is it wise to spend \$3 million to shuffle partitions yet again without providing any additional space? I think this is something that the spokesmen for all three parties must address themselves to if you're going to provide even one researcher for three or four members or if you're going to make provisions, and I think we must, because if we go back to the Camp commission, it indicated that we should be having more members here because of the work load on members here,

particularly those with large urban populations.

[12:15]

I think Camp recommended something like 150 to 155 members. I think it's inevitable that whenever the next redistribution comes there will in all probability be a recommendation for an increase in the number of members here rather than any decrease. That's something I hope you will keep in mind, the availability of space in this building. Rather than spending \$3 million, which will likely be \$5 million by the time we get to do it, perhaps we should be looking at making an office complex addition onto this building to provide the space that everybody seems to agree members of this assembly are entitled to.

**Mr. Warner:** I will just be brief. I want to mention that Mr. Henderson, the Minister of Government Services, came before the members' services committee and he put before us some vision of the future. I felt, anyway, he had some good thoughts on the matter. He was suggesting first of all that following the 1981 census redistribution may occur and at that time we may be adding 20 or 25 seats, whatever it is, plus the researcher per back-bencher. He could envisage that the members of the assembly may want to demolish this north wing and put in a larger and obviously higher office complex that would accommodate the members and the support services that are needed.

Of course, he's looking forward 10 or 20 years down the road. That's the kind of attention the members of the assembly have to give to the matter, looking ahead 10 or 20 years. Some of that planning will be based on the 1981 census obviously. We'll be looking at the trends and how many members we'll need and what kind of services should be provided and then trying to decide what to do about this building we're situated in now. Not the main building, obviously, but the north wing in particular and perhaps some of the adjacent government buildings such as the Whitney Block and so on.

I thought Mr. Henderson had some good thoughts on the matter and I thought he was looking ahead to the future. I think that's what a lot of us around here have to try to do.

**Mr. Chairman:** I'm with you, and I think that's a characteristic of this government, but I don't want to just go on and on and on. With the greatest of respect to the future and the new private members who will be coming on stream and so on, the private members who are here now—this building is getting older every day—



**Mr. Warner:** So are you.

**Mr. Chairman:** God knows, yes. I think it's a today kind of a problem, but I defer to you and your assessment of this government.

**Mr. Kennedy:** I just want to make reference to the possibility of a researcher for a group of members. I presume you'd relate this now to the budget each caucus has for research. We have a certain number upstairs and I suppose if you divided them into the number of members there are—I don't know how it would work out. Obviously, it'd be a beefed-up budget. You're speaking though, presumably, in terms of having one assigned eventually to each member rather than a pool that you draw on. Would you cut back the existing then or partly substitute the expenditure that's there now? A pooled force might have some merit rather than one person who's supposed to be all-knowledgeable and know everything about everything.

**Mr. Martel:** No, I wouldn't think you would have anyone who would be all-knowledgeable. In fact, I think each member should have his own.

There are three points: I believe each member should have his own researcher; I think the leader should have a small research staff and we're beefing up the research staff in the library.

**Mr. Kennedy:** Well, in effect we have this now.

**Mr. Martel:** Oh no. We don't—

**Mr. Kennedy:** The parties do.

**Mr. Martel:** Oh, sure, but—

**Mr. Kennedy:** The parties have a budget for this.

**Mr. Martel:** Sure, but as it now stands, what traditionally happens, and I'm sure it's in all parties, is the majority of the research usually ends up being worked towards primarily the needs of the leader. I'm saying what he needs is his own research staff and not necessarily that large, because you could draw on research staff in any field. If the members had their own researcher as well, I would think that a highly specialized field or fields won't occur, except maybe with leader's staff, and that you would have your own individual researcher in conjunction with the areas you're interested in or you might be serving as a critic in. In other words, if you were a critic of ComSoc you would hire a researcher who had a lot of training in research in that particular field.

Let's say you were the Treasury critic. You would try to hire someone with a specialty in economics or some related field. The

leader's staff would be not necessarily that large but in fact would meet his needs. It would, I'd think, move in the direction towards which any particular leader is given, have the focus that he's going to present as the leader of a political party.

Then the other intent at the same time is to beef up the research staff in the library, and that's starting to take shape, so that there would be certain fields that would be covered off by some capable research people. In other words, I think we're talking about at the present time hiring a lawyer or to have someone trained in economics; we're talking about four people who will be able to give some direction to researchers, because they will have access to the total library.

That's what I think is necessary in the long run. I agree with Mr. Epp, really. When I asked for one for each member I certainly didn't think I would get it. I hope we would move to some sort of ratio, one to two or one to three to start with, to bolster it; then you move from there and just keep adding. That hasn't occurred yet on any basis, except that we've got funding for two more researchers based on a willingness to accept 10 per cent or \$1,000 more per member.

As I say, the guy at the bottom, with the fewer members, gets a smaller increase, he gets six instead of seven. It means two less researchers in the final analysis. That's what's wrong with the system as it now exists.

**Mr. Kennedy:** It seems to me what you're saying then is there are two routes to go. One is to beef up what we've got, and I assume what all parties have, or go to more or less the individual researcher.

**Mr. Martel:** I think what you're going to find, until the day comes that you have one each, is you'll move to what Mr. Epp was saying, three to one. That researcher might work with three people. Hopefully you'll get it down to two to one and eventually, as we did with assistants, on a one to one basis. So that in the next little while each member will have a researcher who will deal in the field that member is particularly keen on and give him the background knowledge to do a good job.

**Mr. Chairman:** Mr. Land, I see, is with us. We would like to move to the next item, if we can—

**Mr. Speaker:** If we could conclude the research, if you will, it will save going over the same ground twice. Perhaps just for the benefit of members: we took some initiative in our Board of Internal Economy meeting of Monday evening, and just so you have the total picture, perhaps Professor Land would



fill us in on what he hopes to do for this fiscal year and what his planning is with regard to research in subsequent years.

**Mr. Land:** Yes, the Board of Internal Economy last Monday evening approved a proposal from the library to institute a small research unit. I know some of you were on the members' services committee and the Morrow committee and have of course dealt with the Camp commission, so you will recall a long-standing recommendation that a research unit be begun in the context of the legislative library.

The approval, initially, will involve four research officers, one of whom will be the senior research officer. We would hope to cover off four fields initially, namely: economics and statistics; education and social policy; government, public administration and legal affairs—and this, as Mr. Martel has said, could mean a lawyer—and finally, science and technology.

Obviously, it's not possible to cover all fields with four people. We propose, in the second phase, to add an additional three or four research people to cover other subject competencies.

The nature of the research would really complement what is now being done by the party caucuses. It would be of a different nature, however; it would be directed to the private member and it would be non-partisan and neutral in nature. It would not make recommendations but simply supply background papers, oral advice, précis and so on. The individual member could make whatever use he or she wished of it.

**Mr. Warner:** When would this be in place?

**Mr. Land:** Just as soon as we can place the ads. The senior research officer I'm hoping can be hired by February 1, and possibly by March 1 we will have the other three added. In light of the scarcity of space, I'm glad to say we have been allotted some space on the fourth floor of the north wing and that will house some of the library staff now on the third floor and make some more room available there, as well as permitting the start of the research unit.

**Mr. Chairman:** Professor Land, I wonder if I may just interject here. We are scheduled for three hours with these estimates. Normally we break at 12:30. Some chaps, I see, have already begun to leave because of appointments or commitments they made. It seems to me we've got two alternatives, because we have four or five items ahead of us: come back at two o'clock, or 1:30 if that's agreeable; or vote on these items, and those who are in a position to stay and discuss

these matters with the Speaker and Mr. Land do so. I defer to the committee.

**Mr. Lane:** Mr. Chairman, I had assumed we would be coming back this afternoon or else quitting at 12:30. I have to go now.

**Mr. Chairman:** You have to go too?

**Mr. Lane:** I can come back this afternoon if necessary.

**Mr. Chairman:** Yes; 12:30 represents only two and a half hours.

**Mr. Warner:** The rent review committee is sitting this afternoon. Is the committee dealing with private bills?

**Mr. Chairman:** No.

**Mr. Warner:** Is rent review the only other committee sitting?

**Clerk of the Committee:** Justice is sitting.

**Mr. Chairman:** And Labour, I think.

**Clerk of the Committee:** We can sit this afternoon. We were going to hear the Ombudsman.

**Mr. Chairman:** Just in a nutshell, what we've got is a 30-minute problem. Shall we continue now until one o'clock? Some people cannot.

**Mr. Warner:** If we continue till one o'clock, will there still be time allotted for the Ombudsman later on?

**Mr. Chairman:** Absolutely. It's quite separate.

**Clerk of the Committee:** The Ombudsman would not be covered this afternoon, because—

**Mr. Warner:** I understand that. I have a committee at 1:30. I'd just as soon continue now and then have half an hour for lunch.

**Mr. Chairman:** Is everyone agreeable to that?

**Mr. Gregory:** I'm not a voting member of the committee. Is one of our voting members going to be here?

**Mr. Chairman:** I have to go myself for a 12:30 appointment I had made.

**Mr. Lane:** I assumed we were sitting this afternoon so I made another appointment.

**Mr. Chairman:** I understand. Mr. Hodgson is here, so we have a quorum I suggest that we carry on in the absence of Mr. Lane and myself.

**Mr. Acting Chairman:** Do you have any further comments, Mr. Land?

**Mr. Land:** Not at this time, Mr. Chairman, but I would be glad to respond to any questions.

**Mr. Warner:** I don't have any questions right now. This is a welcome improvement,

at least from my viewpoint. I for one will make use of the service. I realize it will probably take a little while for new people to settle in and get familiar with the territory. I assume they are going to be housed either on the third or fourth floor.

Mr. Land: Right.

Mr. Warner: That's terrific. What's the first field you were going to start with?

Mr. Land: There are four fields: economics and statistics, education and social policy, government legal affairs and science and technology are the four broad areas. We would hope to get at least one to cover off each of those areas.

[12:30]

Mr. Warner: Will each member of the assembly be advised about this new procedure and the dates when it is expected to take place?

Mr. Land: Yes, we will be publicizing it widely.

Mr. Warner: Good.

Mr. Gregory: I wanted to make a comment earlier when Professor Land was brought in, and certainly the function he is going to perform gives strength to what I am going to say in regard to the researchers.

It's my opinion, just to comment about something you said earlier, that the private member hasn't done too badly in the last little while. First of all, there was the opening of constituency offices, with assistants, who in effect have some value as a research unit; certainly most of them do—or can—perform that function in one way or another. In addition, there is the service provided by Professor Land, along with the additional contribution of the caucus support service. It seems to me that the private member is doing a great deal better than he was doing; the service has greatly increased.

I don't support the idea of a research assistant per member because, frankly, I don't think every member would use one or need one. It seems to me that the members could be better served, if there is a need to re-adjust the funding to the caucus groups for additional researchers, by doing it that way so that there is some control over the use of these researchers. I don't think you need one per member. You perhaps need an increase in numbers at the caucus level so that they can perform a duty of valuable service to the private members.

If we get one researcher per member, and on top of that the research team in Professor Land's library, plus the constituency offices, my God, what do we have to research

that's going to take that many bodies? It seems to me it would be the wrong approach to do it that way. If there is adjustment needed to provide additional research staff, then let's do it that way rather than overload ourselves with staff. We hear people saying the civil service is growing in size and in cost. That would be another 125 bodies—well, not quite, because the ministers would not need them.

Item 8 agreed to.

On item 9, administration:

Mr. Fleming: The administration, as well as actually being the administrative office of the assembly, provides financial services to the caucuses and to all other offices in the assembly, including the office of the Speaker, the office of the Clerk and the library. We manage the financial side of the Commission on Election Contributions and Expenses.

That's the kind of thing we do but, in addition to that, we are somewhat of a catch-all, in that we must pay for the assembly furniture and equipment that is needed throughout the areas of the building over which the Speaker has jurisdiction as well as throughout the members' offices and the caucus offices.

We also have to carry the cost of printing of constituency newsletters; the provision of cars and drivers for the opposition leaders; the providing of moneys for the operation of the dining room steward services and this kind of thing; the question of the tour guides and information services. That's what it's all about.

If you want to know specifics as to individual amounts in particular areas that are lumped under the administrative office, whereas they aren't really belonging to that office, perhaps Mr. Miggiani could provide those figures to you.

Mr. Acting Chairman: Are there any questions?

Mr. Warner: Yes, what are "recoveries from other activities?" Are you selling things?

Mr. Miggiani: We sell in the dining room. We recover the cost in the dining room; that's where the majority of that recovery is. We recover in the barbershop as well; you pay to have a haircut, so that is recovered.

Mr. Warner: Is there a separate set of books, say, for the dining room catering service?

Mr. Miggiani: Yes. It's a separate account.

Mr. Warner: And the same for the barber-shop?

Mr. Miggiani: The same for the barber-shop. It's a very simple operation.



**Mr. Warner:** Right.

**Mr. Speaker:** It's probably the only area of government where there is a lot of cutting going on.

**Mr. Epp:** Did the dining room come under "Administration?"

**Mr. Fleming:** Yes.

**Mr. Epp:** May I ask a short question? Now that Mr. Dinely's company has left, was everything in good order when he vacated that place? Was everything left in good order? I understand there were excellent facilities in there.

**Mr. Fleming:** Right. The answer is yes and no. On one side we inherited an excellent staff; on the other side, we inherited some problems to do with the question of who actually pays for missing cutlery and china and items which, for the most part, did not disappear particularly this year, but prior to the time that the Office of the Assembly assumed management of the Dinely contract. We have paid this final bill, but we are having to retain a certain amount of funds, I think in the neighbourhood of about \$8,000, in order to try to negotiate a proper arrangement with him. The answer is we have inherited a good, clean operation in terms of kitchen equipment, utensils and that kind of thing.

Item 9 agreed to.

On item 10, press clipping services:

**Mr. Speaker:** Professor Land, would you care to say what the status of that is at the present time?

**Mr. Land:** At the present time, Mr. Speaker, as I understand it, it comes under the administration of the personnel office. However, there have been recommendations in the Spicer report and so on, that the operation be integrated with the library. We are certainly prepared to take it over. One of the things we will be doing very shortly is setting up something called a current data file which will consist of clippings, speeches, newspaper articles, brochures and so on filed under specific subject headings for information retrieval, whether it be pollution or PCBs or whatever. This has not been done on a wide scale in the past. Assuming the move of the press clipping service will take place, we will be working first of all to increase the speed with which the clippings are coming out. This may require cutting down on the number of newspapers that are clipped, but the total effect with the current data file in the library plus a streamlined clipping service will be to give faster and more efficient service to the members.

**Mr. Speaker:** And this will all hinge on availability of space which is as a result of the Social Development policy field vacating the fourth floor. We were able to turn a portion of that space over to the library. The east end of the fourth floor, the north wing, is going to be taken over by NDP members. If you want to enjoy that kind of press clipping service and ready accessibility to it, it was recommended by Eric Spicer that it be dovetailed with our library and research capability. Of course, that is all predicated upon availability of space. I just thought that all members should know.

If you have read the Spicer report, and I think those recommendations are excellent, and you want to enjoy maximum benefits from reorganization of the library, it is absolutely essential that at some time we bring clipping services in under the wing of the library. They are at present occupying space a few blocks from here. The lease doesn't run out until some time in 1981, so we didn't think it wise to insist that we try to dovetail them in this building where we just don't have space for them.

That's one of the things we're going to have to address ourselves to if we're going to bring the library up to the standard of excellence we all think it should have. Press clipping service will be a very integral part of that. We're working towards that end as soon as space is made available.

Item 10 agreed to.

On item 12, legislative library:

**Mr. Land:** The estimates are up slightly more than 50 per cent. Two-thirds of that increase is accounted for by an estimate of \$200,000 for renovation, assuming that space would become available. Another \$13,000 was earmarked for the introduction of computer-based reference service.

As of November 1, we have been subscribing to certain commercial data bases. We have rented a computer terminal and our staff is currently undergoing training programs in the use of the computer retrieval. I hope that early in the new year we will be able to announce the availability of that computer data retrieval service to the members. It does take some time before the staff becomes familiar with the use of the terminals and various commercially prepared data bases that are available. This should increase the access to information many-fold and do it in a much quicker fashion than is possible manually.

The other increases are by way of increments, for example, the usual increases in the salaries budget.



I would be happy to respond to questions from the members.

**Mr. Speaker:** With the rapid change that has been effected around here, particularly in the last three years with the setting up of the Office of the Assembly and the Board of Internal Economy, many things happen of which members generally aren't aware. As a result of bringing in Mr. Spicer as a consultant to the select committee that studies services, we lost our former librarian. We have had an excellent person working to keep the library going in the interim and until we were able to recruit Professor Land.

Mrs. Hay is sitting over there keeping a very low profile, but I would be remiss if I didn't bring to everyone's attention the wonderful co-operation and dedication we've had from Mrs. Hay under very trying circumstances when they didn't know in what direction the library was going. Mrs. Hay did a report of library services and it was made available to me, but I don't know how wide the distribution has been. I would like to say before this committee, on behalf of all members of the Legislature and particularly on behalf of the Office of the Assembly, how much I and anybody who knows of her contribution appreciate what she has done by way of keeping our library together and providing an excellent base for Professor Land to build on. I would like to pay tribute to Mrs. Hay for that contribution at this time.

**Mr. Acting Chairman:** I'm sure we all appreciate your remarks, Mr. Speaker. I think they're very timely.

[12:45]

Item 12 agreed to.

On item 13, constituency offices:

**Mr. Warner:** When will the situation of employees in the constituency offices be equalized with the situation of employees here at the assembly? There are several serious problems which exist. One, of course, is the inequity in salaries. Another is sick time or sick benefits; there isn't any for the constituency office people. In my own particular circumstances my assistant was seriously ill, confined to hospital for a while, and she had to go on unemployment insurance. There was no way for her to continue there. We had to terminate her and have her put on unemployment insurance, and then she could come under UIC while she was hospitalized. Following her recovery, when she was back into the office, we then put her back on salary.

She is obviously going to suffer a loss in pay. It doesn't seem to be a sensible way to proceed. I cannot, for the life of me, understand why there is this huge discrepancy

between people working in the constituency office and people working here at the assembly. In my case they are doing essentially the same work. There is variation in the job, obviously. The one in the constituency office tends to do the case work and the one here tends to do more in assisting with the legislative duties; but essentially the same work and the same working hours, and yet the discrepancy exists.

There aren't any benefits for the people in the constituency office. I would just like to know what is being done. Is there some sort of timetable? Do I know that in X months, or whatever, that this is going to be taken care of?

**Mr. Martel:** I understand we have a range of salaries that has been prepared by Mr. Wilson as a launching pad almost, I guess, eventually coming into some comparable pay range between the constituency office assistant and the assistant at Queen's Park. My feeling has been, and I have expressed this to the board for some time, there is a great discrepancy which should be cleared up and there should be a range adopted so that assistants start at a range over a period of years and work up to a very decent salary.

I guess the biggest shock came before the board a week ago when we gave approval for a change in the Ombudsman's office for virtually the same work. I am being personal now, because my assistant up north does nothing but compensation cases; she settled two in the month of September alone. At any rate, the salary there, recommended by Hickling-Johnston, was \$21,000.

**Mr. Warner:** Twenty-one thousand dollars.

**Mr. Martel:** Yes, for investigator eight; which kind of floored me when I consider my girl back north gets \$11,800.

**Mr. Acting Chairman:** He would be getting more money than you would.

**Mr. Martel:** You're right.

**Mr. Warner:** Some might argue he'd be worth it.

**Mr. Martel:** I think there has to be an improvement there and I think we have to look at providing some fringe benefits.

In my case my assistant happens to be married to an Inco worker and they have all the range of protection there, but I am sure there are assistants out there who have no coverage whatsoever; whether it be just plain OHIP, they just don't have it.

My suggestion is that we should be working along that line to provide them with some of the benefits that our staff here enjoy. There should be no duplication. In other words if my assistant back north has the

coverage you don't pay to have the same coverage; but where there are individual cases, regardless of what part of the province they are in, they should have the protection of sick benefits as our staff here does.

**Mr. Warner:** Who is responsible for making the changes?

**Mr. Martel:** I guess the Board of Internal Economy.

**Mr. Fleming:** The board has discussed it on a number of occasions but not reached any conclusions; that is where the matter sits now.

**Mr. Warner:** Is it on the agenda for future meetings?

**Mr. Martel:** Yes, it is. I have asked the Speaker to put it back. Mr. Wilson gave us the range based on what we had given him; he had to do that. If we want to make changes in the scale that he has put before us, on what they should have now or how they reach that, then we can do so. It will be up to the Board of Internal Economy.

**Mr. Warner:** I don't want to put anyone on the spot, but what is the problem? What seems to be holding up the process?

**Mr. Acting Chairman:** It's a money problem.

**Mr. Fleming:** I think part of it may be in concept. I think it was a great change, first of all to have the funds for a constituency office. I think there was uncertainty on the part of some people about whether the staff would be considered to be full-time or part-time. I think it got off with the feeling that the employee there was probably not quite the same kind of full-time employee as here. I think it's now a case of the board attempting to examine this individual and to determine if in fact it wants to equate that person with the person in here. If they do, I would assume that the board would want to institute certain benefits, and possibly even a pension program. That's really it.

**Mr. Warner:** I just hope the board can deal with it as quickly as possible and get a satisfactory result. I'm particularly concerned about the sick benefits; and the other benefits, OHIP and so on. I don't think it's right that someone working full-time at least

40 hours a week, and really more than that—and who has long-standing full employment—well a couple of years—who gets sick has to go under the UIC because there is no sick leave coverage. That doesn't seem right to me at all. I would hope we could reach this level of equality, and I hope the board can deal with it quickly and get the matter resolved.

The same applies to salary. Mr. Wilson has put together a salary proposal and that is going to the Board of Internal Economy. I just hope you exercise some common sense, because the situation has been festering for too long and it's not getting any better.

**Mr. Gregory:** That is the really urgent problem, the sick leave; that's a real problem.

**Mr. Warner:** Yes.

**Mr. Gregory:** Salaries are quite another issue.

**Mr. Warner:** The other, of course, is the rental for those offices, because there are huge variations across the province.

**Mr. Gregory:** That was increased, we covered that.

**Mr. Warner:** Is there a differential?

**Mr. Fleming:** No.

**Mr. Gregory:** This point was made before the Board of Internal Economy; as a matter of fact I made it because I live in a very high-rent area and the suggestion was made that there should be a rent differential across the province. I don't know why that didn't happen.

**Mr. Fleming:** We did a study on it; but the board declined to do it and simply said \$5,000 is the amount across the board.

**Mr. Warner:** There are so many areas in Metro where the rents are extremely high and you don't have any choice. There aren't shops available. I've got a crummy little office in the back of a second floor and it's \$300 a month. It was a pirate who wanted it, so I moved out.

Item 13 agreed to.

Vote 201 agreed to.

**Mr. Acting Chairman:** This completes the estimates of the Office of the Assembly.

The committee adjourned at 12:45 p.m.

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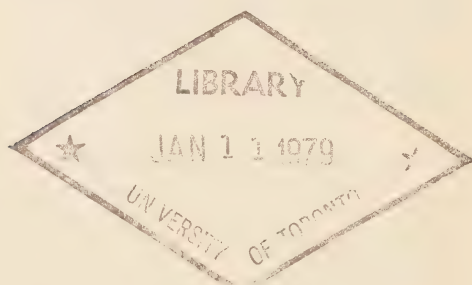
No. G-21

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

**General Government Committee**

Estimates, Office of the Ombudsman



**Second Session, 31st Parliament**

Wednesday, December 13, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



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Editor of Debates: Peter Brannan.

# LEGISLATURE OF ONTARIO

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WEDNESDAY, DECEMBER 13, 1978

The committee met at 10:10 a.m.

After other business:

## ESTIMATES, OFFICE OF THE OMBUDSMAN

**Mr. Chairman:** Gentlemen, we'll proceed now on the matter of the estimates for the Ombudsman's office. Mr. Hoilett and associates, if you'd come forward please. Do you have opening remarks?

**Mr. Hoilett:** Mr. Chairman and members of the committee, thanks for having invited us today. With me today are Mr. Allan Mills, the controller in the Ombudsman's office, and Mr. John Allan, appearing as our accountant. I suppose the only opening comment that I really have is brief reference to the opening comments that my predecessor, Mr. Maloney, had made when he was here last time. I would basically emphasize the fact that, based on the complaints that we've received in the office to date, there is a continued expression of public demand for the services provided by the Ombudsman's office.

He indicated at that time that he was of the view that our present complement of staff of roughly 122 was, certainly in the foreseeable future, adequate to meet those demands. Also, based on the improved procedures in the office, he was of the view that in the foreseeable future there will be no substantial increment in the budgetary requirements. He emphasized at that time that some of the factors that might contribute to the requirement for the funds that were being sought at that time were a number of reports, some of which he referred to. I suppose the most significant of those was the North Pickering investigation, in which I have been personally involved.

He made reference to the fact that he thought it appropriate that steps should be taken to heighten not just the public awareness of the office, which has been undertaken over the years, but also the need to have a mechanism for pointing out the functions of the Ombudsman. One of the means that had been thought of at that time was a film on the Ombudsman's office. I can report that as of now a film has been retained to

produce that film. They're now in the process of doing that. Indeed, just in the past week or so I accompanied members of the Ombudsman's staff to the Fort Frances-Atikokan-Thunder Bay area with a view to filming some of the efforts of the Ombudsman at work. The report that I've had back from northwestern Ontario is that that's been a successful exercise.

Concomitant to that would be the production of suitable brochures, which would be more or less an accompaniment to the film. It was originally anticipated that the film would probably be completed by the end of this calendar year, but it's more likely to be early in the new year. That's been partly the result of the fact that Mr. Maloney has resigned in the meantime. I've been acting as Ombudsman, as you're probably aware. The incumbency of Mr. Justice Morand is still, I suppose, in the air.

It was hoped that the film would be able to embrace not just the concept of the Ombudsman but be reflective of specifically what happens in the transition. Indeed, by the time that film is complete, if the permanent successor were appointed he would play an appropriate role in the film. The view now is that that will likely be completed in the new year.

Those are probably about the only comments that I wish to make, Mr. Chairman, subject to any questions that might be forthcoming.

**Mr. Ruston:** I have had some concern for some time, I suppose since I was on the first committee that set out to have dealings with the Ombudsman's office, after it was in operation. Then we had the North Pickering problem and we attempted in some way to try to get that solved. That would appear to be the most expensive and probably the most elaborate investigation that would probably ever be held by your office—I would hope so anyway.

I have a feeling that at the start of that investigation it was probably the first endeavour of the office and the people involved in the investigation were not too aware of or not experienced in aspects of government operations, of negotiations to buy property and so forth. Probably in some ways the

method of coming up with their initial report and the way that it was investigated maybe caused some of the problems from it.

I think some of the problems were caused by the method of the Ombudsman's office of investigating and talking to the people. I think that probably compounded the situation to some extent. Of course, we all know what happened when Mr. Sopinka issued his order in division court with regard to the five people who were independent agents working for the government on contract. They claimed they had not been notified the Ombudsman was making the report. He was naming these people for not giving the people proper information and so forth when they were making purchase of the land.

We set up an office in the Legislature. Being, I suppose, kind of naive in a lot of government operations, I was a member who had been here for seven or eight years when the Ombudsman was appointed. When the appointment came along, if I recall, the speeches that were made and so forth about the setting up of the Ombudsman's office were almost overwhelming. I remember the former member for Downsview, Mr. Singer, talking about it many times. Then, of course, when Mr. Maloney accepted the opportunity to be the Ombudsman there were great speeches about his great ability and so forth. No one doubts his ability I am sure, who knew him at all in his endeavours in the past 25 years in courtrooms and so forth.

I just heard on the news last night and again this morning about sunset laws. We hear about them every once in a while. Whenever we start up some operation in the Legislature and in any government, we wonder whether there should be a complete review of them after so many years.

I know about the size of the operations of some of the Ombudsman's offices throughout the world and throughout Canada. When you look at the size of their operations and the size of ours, I just shudder to think we have allowed ours to grow to such a magnitude in such a short period of time.

I know there are a lot of people out there, as we say, in the boondocks and all over, who may feel they have some complaint with government. You will also find an awful lot of people who have been dealt with through some other agency. I know myself, when I was elected, I had people come to me who had gone to other members or the member previously, thinking I would be able to do something, and solve some of what they thought were serious problems. After looking at them and investigating in some form, I

found they had been treated fairly, but they themselves didn't think so.

I was looking over some of the calls we had in our own area recently, and I am sure some of them are very sincere, but a number of them are very frivolous. It takes an awful lot of time. We have a riding office in every provincial riding. We have a riding office in every federal riding and now we have an Ombudsman. We are spending one heck of a lot of money to do what, in a way, government should do itself, if it was working properly.

I really think we are wrong some place here. My assistant here in Queen's Park must spend a third of her time on workmen's compensation. One case this week, for instance, involved a guy who hadn't had any money for six weeks. My assistant called workmen's compensation who said "Oh, well, yes . . .". She asked: "Well, why didn't he get the money?" They answered: "I won't say what the circumstances were, well, then yes." They called Windsor and said he could pick up \$500 at the Windsor office tomorrow morning.

Now, damn it, for six weeks we fool around, and this guy has no money. Workmen's compensation says on one call from my office assistant. "Give him \$500 tomorrow morning." You could probably do the same thing. If workmen's compensation was working halfway decently, they wouldn't have to do that.

I went down before the board one time with a problem. I have only appeared before the commission once. Maybe that is why I didn't go back. I was successful, but why did they give him the money when I went? Did they do it because I was there or did they give him the money because maybe I brought out the areas of concern or the problems he had that he couldn't tell them so they didn't accept him?

I often think that if there were 10 people in the Workmen's Compensation Board to trace down claims and that was their only job, I don't know whether that would be any answer. Maybe they would get tied up too in the bureaucracy over there in horizontal and vertical filing.

I just think it is awful that we have to spend over \$4 million to right wrongs that government agencies do. My thought when I first heard about the appointment of an Ombudsman was that it would be someone, whoever he might be—I don't think it really matters that much—capable of dealing with the public and capable of listening. I think that is a key part of anybody who works in



the Ombudsman's office. It's the same as ourselves; we have to be capable of listening.

My thought was that we should have an Ombudsman, a kind of head there who is exceptionally good at that kind of thing so that he can convey it to his staff, but that people with real serious problems would probably be able to talk to the Ombudsman, not to the assistant, the second assistant or third assistant. He would probably have a certain number on his staff. Anybody can throw out a number, but I think Quebec has a staff of around 37. If I remember correctly, I think that is it. I mentioned that in the House at the time when the Ombudsman's bill came up.

It seems to me it had to be fairly small so that there was a personal part of it. I always thought of an Ombudsman as being something kind of personal. One went to him, I suppose, like a constituent coming to me. We would have people coming to us with all types of problems—family problems and personal problems. They come into my home where I have an office and talk to me personally, or to my riding office, as the case may be. They feel they have a personal contact with you. Even if you don't solve their problem, because sometimes it is a problem they themselves have to solve, they have had the opportunity to talk to somebody. They leave there satisfied, saying: "Maybe I can solve my own problem now."

When you get an office as large as this one I just don't think that is the type of Ombudsman or type of thing I really foresee as the job of the Ombudsman. I realize it is a problem trying to avoid people coming in with frivolous problems over which the Ombudsman has no jurisdiction whatsoever. It seems to me they should be told immediately that they should either go to their federal member or their provincial member. There is one other alternative which I always felt very strongly about, even before we set up riding offices. We should have what I call a community centre office.

It is easy to say that in southern Ontario because I realize the population in northern Ontario presents a bit of a problem and that type of thing, but we could have them in areas where people wouldn't have to drive more than 20 or 30 or 40 miles. They could go in and see someone who would be well trained in government operations. There could be a very small staff of probably not more than two people. They could probably look after all problems of the riding office as well.

I really think if we want to save money and mean what we talk about sometimes,

then those are the types of things to do. That is getting away from the Ombudsman's office. We have not got away from what I envisioned as the operations of an Ombudsman. I think we have got it so large now we are losing the intent of what we really thought we were setting up.

I must admit workmen's compensation has got to be the cause of most of our problems. I know it is in my office. It's not the number of calls I get but the time spent in getting the problems solved. If you write a letter now, you might as well forget about it. The guy's going to starve to death unless Welfare comes to his help in the meantime. If you call them on the phone, you generally can get help. But it seems to require an awful lot of calls back and forth.

I just don't know. I wish I had the answer. Part of the answer lies with workmen's compensation but I really think that we've got ourselves into a very big bureaucracy now—much bigger than I ever envisioned it would be. I have a feeling that it's much bigger than most people envisioned it would be, especially when you compare it to other areas.

I realize that Ontario is a large and spread-out province. I realize that. But, on the other hand, I feel very strongly that things have gone a little bit beyond what we intended originally. I'm sure the people involved in it are well meaning and work on it, but I really think that it's got a little beyond us.

I don't know whether you want to take these things in order. I'll just go over them, anyway. I guess it doesn't matter. In the services, we have \$706,000. Could we get a rough breakdown on what that might be? If you want to make any remarks to what I had to say, maybe you—

**Mr. Hoilett:** Mr. Chairman, I don't know if I should respond to some of the comments made by Mr. Ruston.

**Mr. Chairman:** I wonder if I might make this suggestion? Two other members of the committee have some comments to make. Perhaps you could respond at the end, or it's up to you. Is that okay with you, Mr. Ruston?

**Mr. Ruston:** Yes.

**Mr. Hoilett:** I have no preference. If other people would like to make comments, maybe—

**Mr. Chairman:** Mr. Lane and Mr. Hennessy have.

**Mr. Hoilett:** Maybe it would be appropriate if I saved my comments until afterward.

**Mr. Chairman:** It might be. Mr. Epp?

**Mr. Epp:** Thank you, Mr. Chairman. I have a specific question rather than general comments. It originates with the auditor's report and the particular column that I think Mr. Hoy wrote the other day. Claire Hoy. I'm sure you're familiar with him.

**Mr. Hoilett:** We certainly are.

**Mr. Epp:** And the typewriters, the dictaphones, or something of that nature? I wasn't expecting to be here this morning and, as a result, I didn't cut the column out. But it was with regard to the number of machines that you people have—probably more than IBM has right across North America almost—and I am wondering whether you would like to clarify that for me.

**Mr. Hoilett:** To be perfectly candid, if I were inclined to be as caustic or critical as Mr. Hoy tends to be, I would probably make my statistics more accurate. It may not be his fault, but my staff does not number 20. It seems to the uninformed public reading it that we have a staff of 20, 44 of one kind of equipment and 82 of another. I can see why they might grow grey-haired in a very short time. That's enough of Mr. Hoy, I think.

The point is, Mr. Chairman, that the particular figure for the pieces of equipment in our office is probably quite accurate. I have addressed myself expressly to this issue and I have spoken to Mr. Allan Mills, our controller, about this. I've canvassed our directors in the office. I've satisfied myself that the amount of equipment we have is not grossly out of proportion to our needs. I'm now referring particularly to the dictating equipment and the transcribing equipment.

I might indicate, as I recall, that one of the recommendations made by the provincial auditor in his report was that those pieces of equipment could be used most productively if they were kept in a pool. Again, I considered that very seriously in discussion with my colleagues. Again, our view is that this is not feasible from a practical point of view.

In terms of photographic equipment, as I recall, the numbers are much smaller, for very obvious reasons. One recommendation that the provincial auditor made that we should consider and, indeed, I have considered it and spoken to my colleague, Mr. Mills, about it, is that the photographic equipment should be kept in a pool. That to me makes eminently good sense and we are giving effect to that recommendation. This is for the simple reason that photographic equipment is not the type of equip-

ment you use with the same frequency or under the same circumstances one might use dictating equipment. For that reason I think that's a good recommendation and we're giving effect to it. I'm not sure that answers your question.

**Mr. Epp:** I think it does, Mr. Chairman; it does help to clarify it. It's unfortunate when these things are taken out of context. You made the statement earlier that it's not grossly out of proportion. I don't mean to be picky, but something could be out of proportion but—

**Mr. Hoilett:** Maybe that was an unfortunate choice of words. If we had one or two extra pieces of equipment we didn't need in terms of dictating machines, I'm not prepared to say one way or the other. But certainly, as you are aware, many of our staff are on the road on investigations and they might want to dictate something—as a passenger in a car on the way back or at the time they interviewed someone, as opposed to a day or two later when they get back to the office.

**Mr. Lane:** Mr. Chairman, I'll be very brief because my voice is not in very good form this morning. Mr. Ruston did raise some points I would like to elaborate on a little bit. I don't know whether it was in the Ombudsman's report or whether it was in a statement before the committee but some place along the road there was a desire expressed for offices in northern Ontario so that service could be provided in the north.

**Mr. Hoilett:** I recall that was one recommendation Mr. Maloney made.

**Mr. Lane:** Having lived in the north all my life and knowing the great distances involved and knowing the cost of obtaining office space, it seems to me that surely the Ombudsman would be welcome and could arrange to work out of some facility that is already there, rather than putting more money into a rental situation. I suppose it can't be political because of the nature of the operation, but as has already been pointed out, we do have riding offices, both provincially and federally; we have Northern Affairs offices all across the north; and every organized municipality has an office for the clerk to work out of.

I'm sure in most cases the Ombudsman would be welcome to work out of that office. People are in the habit of going to that office for various services. Most towns have a community hall or a community centre where space could be obtained, probably free of charge. While I want the people of the north to get the most possible help they can, I



just cannot support the idea of an Ombudsman renting office space to serve a very sparsely populated area where the staff is going to be located for only a very short period of time each year. I was wondering if any of these moneys in these votes are meant for that purpose and, if so, what moneys and on what basis.

The other thing I would like to say—and I say this in all fairness to everybody—is when some staff member of the Ombudsman comes to my riding and holds forth for a couple of days in various locations, it is well advertised, the greatest percentage of the people coming before the member to grieve or to present a situation know damn well before he or she goes that nothing can be done at that time. It's sort of a source of entertainment for them to go, because they're chronic complainers. No matter what I have done or somebody else has done for them they're still not going to be satisfied so they want to try it one more time.

As Dick has said, one big thing is workmen's compensation. But even the Ombudsman can't do anything for that person until he's gone the full course, until all the appeals have been heard and so forth. Once any person has done that, he or she must be very aware what they do next. It is no simple matter to go the full route. I have to agree with my friend Dick: that takes a lot of every member's time. I do appear before the board rather frequently. I think most people coming to you people for help know damn well they are coming months too soon, because they haven't gone the full route.

[11:00]

I am just wondering what percentage of the cases we see up north—again I want to state that I certainly want to have the best service possible because we do lack many things up there—really have concerns that you can deal with in a manner that is useful to them at that point. This is what I am concerned about.

I am also concerned about the expense that would be required to provide a special office for the Ombudsman's staff, because it would be used for a very short period of time of the year in any given circumstances. I'd like to have some answers, Mr. Chairman, to those concerns.

**Mr. Hoilett:** Mr. Ruston has said so much I suppose I could spend all day making an apology for the Ombudsman concept in general or our own office in particular. I don't intend to do that, but I certainly think a few comments are appropriate.

First of all, time is finite, our resources are finite, but it would appear the source of human complaint is infinite. We have to reconcile those almost irreconcilable objectives. It is my view, and I am sure it is one you would all share that if we have an Ombudsman's office it shouldn't be window dressing. It is the type of office that if you had a complaint you would like to take it to and hope you are well served.

Sometimes I wish I sold insurance, because at the end of a year I could tell how well I have done. Unfortunately, the Ombudsman's office is not that easy. It is rather interesting that the Ombudsman from Papua, New Guinea, issued a report we have seen lately. He made the point it is not a correct measure to look at the Ombudsman's statistics and observe that you received 100 complaints and that of the 100 complaints he supported 10 and 90 were unsupported. During the course of that exercise, often the person who lodged the complaint has had a meeting with the Ombudsman's office and as a result of that he sometimes has had a much better understanding of the decision-making process of a particular government agency or branch, as the case may be. Or he is given reasons for a particular decision that was made, which is equally important in our democratic system.

Mr. Ruston pointed out the importance of the personal touch and I certainly would not try to suggest there isn't that touch. But the reality of the Ombudsman's office is that it serves a very large jurisdiction geographically and numerically. I have been with the office since its inception and I am acutely aware of how much time it takes to speak to people on a one-to-one basis. Unfortunately, it is not always the person is as rational as Mr. Ruston, who might be prepared to sit and listen to you for a short while and accept the fact the Ombudsman does or doesn't have jurisdiction.

In the short time I have been acting in the Ombudsman's capacity I have taken time to meet those people who have insisted on seeing the Ombudsman from time to time. If the Ombudsman met with every complainant to the Ombudsman's office, first of all there wouldn't be enough hours in the day to do it. The typical person who comes and insists on seeing the Ombudsman is very volatile. One gentleman I met recently, after it had been carefully explained to him the matter was not within the Ombudsman's jurisdiction, came into the office and was literally sitting on the edge of the chair. He informed us the Catholic Children's Aid Society had taken his children—obviously there was a



huge custody dispute between him and his wife—and the Children's Aid Society—

He already knew when he came to the office there was nothing we could do about it. I explained it as briefly as I could and as well as I could. But he wasn't content to accept that as an answer. I queried him as to whether he had a lawyer. Yes, he had a lawyer. Had the matter been to the courts? Yes, and he took God with him that morning as his counsel, I think. Could I direct him to the Ontario Human Rights Commission? I said I could do that but as far as I was aware the matter was not within their jurisdiction either. He insisted; and I am quite sure I spent 15 or 20 minutes talking to that gentleman simply with the hope that I would defuse some of his obvious volatility before he left. I gave him all the information he sought and more than a reasonable amount of time. He thanked me and left. I didn't know what I had done except listen.

Unfortunately, very often that's all the Ombudsman can do in a limited number of cases, but it takes time to do it. I would certainly agree with Mr. Ruston that when the Ombudsman's office was originally created probably few people knew what the Ombudsman's office would grow to be. I don't think there is anything intrinsically wrong about that. Many of us are parents and when we have children we don't know what they are going to be either. We have to adjust to the circumstances.

It is my view that it is really a process of adjustment. The Ombudsman's office has to adjust to the reality of the political and economic world in which it operates. I think the Legislature and the civil service also has to make that adjustment. But given good faith on all sides—and I'm sure we have an abundance of that—there is no reason in my view why the Ombudsman's office can't function and provide what I conceive to be a very vital service to the community.

I have never been of the opinion that there is competition between the Ombudsman's office and the individual MPP. Indeed, their objectives are the same. The advantage of the Ombudsman's office—and I am probably just repeating what my predecessor had to say—is that it rationalizes in the sense of telescoping into one individual certain powers that it would be unwieldy to vest in 125 MPPs.

The MPP, in dealing with problems, has the advantage of the informality sometimes that the Ombudsman may have but is also qualified by the fact that he has to work within the four corners of legislation. He has to dot the i's and cross the t's and ultimately go

before a select committee on the Ombudsman. That in a way inhibits the type of flexibility or informality I am sure the Ombudsman and members of his staff would like to have.

That's the reality in which we work. As Mr. Maloney said, and I am prepared to admit now, we certainly at this point have adequate staff to meet the needs that I think in fairness to the community we serve and that you as members of the Legislature created us to serve. I think we should have the resources to meet those needs.

To address myself to some of the points raised by Mr. Lane, certainly the debate that preceded the creation of the Ombudsman's office made it abundantly clear that it was intended that the Ombudsman's office should serve Ontario in its very far reaches, and that is northern Ontario. By the time the Ombudsman's office became operational, that very problem was addressed as evidenced by the frequent visits made to the various parts of the province.

I am aware that Mr. Maloney had recommended one office. We also have the reality of the cost of creating offices in various parts of the province. It is virtually prohibitive. As to the location of such facilities if they were established, to the extent that I had any recommendation to make or any advice to give in the office, I would certainly subscribe to the view that we should seek to make those facilities as inexpensive as possible.

**Mr. Chairman:** May I interrupt? When the whole question of locations for these visits in the far reaches of the province came up, was consideration ever given to using existing constituency offices? I say that because they are, after all, government-provided. The taxpayers of the province pay for those constituency offices.

**Mr. Hoilett:** I don't know if that specific question has been addressed, Mr. Chairman. It is certainly one that I would be more than pleased to raise.

**Mr. Kerrio:** That's a good question.

**Mr. Chairman:** They tend to be in regions that are easily accessible. People have some familiarity with them, the kinds of people who might most often need the assistance. Both the member and the Ombudsman would know where to go. I just think that it's an avenue that might be pursued.

**Mr. Hoilett:** As far as I'm aware, I know that when these visits are made that certainly every effort is made to involve the local MPPs and, indeed, I think visits are made to some of these constituency offices. But, as was

pointed out, to maintain our seeming independence is equally important. We've sought neutral territory on all these hearings that have gone on around the province. Often it's a municipal building or the legion hall or some other obviously neutral territory.

**Mr. Hodgson:** Mr. Chairman, on that point, they include several ridings when they go into an area. The last one that I got notice of was held in Orangeville for our area. No member has a riding office in Orangeville.

**Mr. Hoilett:** Where there is a juxtaposition of ridings, and obviously one is likely to receive complaints from constituents which involve one or more ridings, usually we notify all the local MPPs. I don't think I need to elaborate. I could rationalize for a day on the Ombudsman concept.

**Mr. Chairman:** Mr. Hennessy has a question and I have one after.

**Mr. Lane:** Mr. Chairman, I have one.

**Mr. Chairman:** I'm sorry, John.

**Mr. Hoilett:** I'm not sure that I answered your question.

**Mr. Lane:** I don't think you did, really. I think we're waiting on certain things.

**Mr. Hoilett:** I am not trying to avoid anything.

**Mr. Lane:** I've been very appreciative of the response that your people have always given me when you go into the area. You tell me who is there, why they are there, what the problem is and so forth. I appreciate that and there are certainly no complaints from me, but it seems to me when I look at the list of people you saw there was a very small percentage that you could do anything for.

**Mr. Hoilett:** I'll address that.

**Mr. Lane:** You didn't address yourself to it.

**Mr. Hoilett:** I'll address myself specifically to that, Mr. Lane. The Ombudsman, I suppose, is cast in a rather invidious role of playing God sometimes, which is not a very nice role in which to be cast, because the legislation that creates him invites him to make findings that sometimes involves making normative judgements. Some people enjoy doing that more than others, but he is required to do it by statute. As I said, it's not a nice role to have to play sometimes.

It's my view, and I think it's a legitimate one, that the Ombudsman has to be careful in the exercise of discretion where he is going to tell someone there is nothing he can do about his complaint. Before that is done, sometimes it involves listening. What is frivo-

lous or trifling is not always an easy question to determine. I'll give you an illustration of that.

I can recall one of the early complaints that we received in the office was from a schoolteacher who had left the teaching profession and had gone to greener pastures. One or two years had gone by and this time he had recovered his contribution to the pension fund which, I gather, he had invested at that time. I think he had been overpaid to the tune of about \$1,000. In any event, whatever the figure was, he received a letter asking him to return a cheque in the amount of the overpayment. Most of us don't like to pay back money but, reluctantly, he did, acknowledging that he had not been entitled to it.

What really hurt was that another six or nine months had gone by and he received another letter asking him for the interest on it, which at that time amounted to the grand total of \$60. At that point, there wasn't a lot of money involved. It didn't matter how extensive the investigation was, it was going to cost more than \$60 to investigate the matter. Is that trifling or is that vexatious?

[11:15]

Even more to the point is the matter that was recently considered by the select committee on the Ombudsman's last report. That was the case of the workmen's compensation worker who is dear to the heart of all of us because it touches the human heart because people in our society have been injured. The question was what kind of a heating lamp he should have for his particular back pain or ache or whatever it was. It involved at most \$200 or \$250. I don't recall the exact amount, but it was certainly under \$300. The select committee observed that the Ombudsman's Office and the Workmen's Compensation Board should seek to resolve such petty issues as that somewhat more expeditiously, having determined that it probably costs \$6,000 or \$7,000 to investigate the complaint. My figure of \$6,000 or \$7,000 may be a bit off, but the proportions are accurate.

The Ombudsman's office looks at that in terms of a \$250 heating lamp and treats it as trifling. We may choose not to investigate it. But if you look at it in human terms of someone who has got an aching back which he has had for a number of years and which continues to ache with the quality of heating that he is getting, it's a completely different matter and you cannot measure it in terms of dollars and cents. Very often, that's the type of difficult decision that the Ombudsman has to make at times. I agree it is something that is very trifling and that we shouldn't



waste our time over it, but sometimes you have to listen to that complaint. What to you may be trifling may not be trifling to the person who is complaining.

Arising from the last report, if not that of the select committee, I recall one of our more profound commentators commented on the Ombudsman's reaction to cold toast complaints in the correctional centres. Again, it may appear trifling and I can point out that the Ombudsman's office never goes specifically to investigate complaints relating to cold toast. It may appear trifling, but if one examines the total situation, what is in the mind of the person who is complaining and how he perceives it, especially in the context of correctional centres where anything can be a trigger or can be a catalyst that sets off an explosion, it really isn't so trifling if enough people are complaining about trifling matters.

I fully appreciate the point you're making, Mr. Lane. It's one of which we are fully aware. If we err, we'd rather err on the side of the sensitivity than on the side of turning someone away. As I said, it's one that we will always be aware of in recognizing the precise kind of concern that has been expressed. I'm not sure that has answered your question.

**Mr. Lane:** I don't want to prolong it because Mr. Hennessy wants to talk about it. I'm not in a very good mood to talk. I still haven't got the answer as to what percentage of people come before you up north.

**Mr. Hoilett:** I can give you a general answer to that, Mr. Lane. We've observed that is probably not a significant number but, having regard to the age of our office, maybe it is significant. The number of complaints that are falling in this non-jurisdictional area is diminishing. As I said, that's a general and not a specific answer. That's as true in the north as it is in other parts of the province.

To allay some of the concerns that you have expressed, I have no idea how soon the federal government will act but I hope it's sooner rather than later. Certainly the creation of a federal Ombudsman or more federal Ombudsmen will make our job a lot easier with respect to dealing with a lot of non-jurisdictional complaints. Then you can say: "Go to Miss Inger Hansen or to Mr. Gordon Fairweather." That can be done very briefly.

That aspect of your concern, I would hope, would be ameliorated in the short run. My answer is general, but I think it applies to northern Ontario as well as the rest of the province.

**Mr. Hennessy:** The office is more or less a duplication of services, as far as I'm concerned. I think the member of Parliament is elected to some aspect to deal with these things. I'm concerned about the number of employees, the salaries, the employee benefits, and the transportation. The cost is approximately \$4 million plus. As far as I'm concerned, in my area a lot more things are more necessary. There's a distinct shortage of hospital beds in my area. I'm sure you all get the odd time where people are complaining about not being able to get into a hospital, and not being able to get the services that are provided.

I think the costs of this are huge for what it really accomplishes. I have offices in my area and I'm quite busy with meeting people on Saturday and during the week when they phone. You get somebody who hasn't got a chance in hell of getting anything done anyway, so they keep going from one clergyman to another, if you want to put it that way, to try to get some help. There is no help. The rules say they can't get it. They go to the Ombudsman and they receive a sympathetic hearing. Then they recommend he goes to another party. Therefore, the average person is complaining about getting the runaround. It's only rightly so they are getting the runaround because they know the rules are there and they can't be helped.

I'm really concerned about government spending in regard to spending \$4 million for a duplication of services. We have riding offices, I have two of them in my riding and I service the people to the best of my ability. I can't see where this office is going to keep on if there's not a streamlining of operations. I think the cost is excessive. The money could be used, as I said before, for supplying more hospital beds, particularly in my area where there is a need to some extent.

I would just like to know what is your percentage of success for the number of people who come to see you. What is the cost of each case which provides more or less satisfactory results to the people? It could be an enormous cost with people going there. They have three strikes on them when they go there anyway, and it's just a waste of time. Therefore, no matter to whom they went, nothing could be done.

How many cases have you solved that couldn't be solved by elected officials, or by the government staff or whatever it may be, whether it be federal or provincial? Surely to goodness, there are rules and guidelines in the government. There are rules for us, as members of Parliament. We are supposed



to have some authority, but at times I doubt it. I'm just beginning to wonder if we have that much authority, or if other people have more authority than we have.

My concern is about the percentage of success. What is the cost of this success? Are we paying \$1,000 for every person who has success, or \$2,000, or whatever it may be? I know a lot of cases in my area where people come to me and they've been to every other agency and you're coming up to visit the area so they figure they'll give it one more shot. The recommendation is we can't do anything for them, so they recommend they go back to another agency.

I'm very disturbed at the high operating costs of this and the percentage of success, when, as far as I'm concerned—I'll repeat myself—there are things that are more necessary. How many people are we going to have making more red tape for the people to try to cut and get through? As far as I'm concerned, in all fairness to you, I think this budget is very excessive. I would like to see a streamlining of operations.

Travelling from Toronto to northwestern Ontario is excessive. As the chairman has said, you get up there and you have to rent a hall. When it's in small community, the people have to go to great lengths to get there. Their cases are heard. We all know that if it's a workmen's compensation case it should go to the member. If it doesn't go to the member, it's referred to the Workmen's Compensation Board anyway. Therefore, the members could do that just as well as the Ombudsman. It it's a hospital case it's just referred to the minister's department—and other things of that nature.

What I'm really concerned about it this. If you have a high percentage of success, perhaps it's worthwhile. But, if we're spending \$10,000 for every successful case, it's a waste of money. As far as I'm concerned, I have to disagree with you, sir. It's all right to say that you feel that is good. But, the way restraint is today and the way money is tight, I personally would like to see the money used for more hospital beds in Ontario. Don't cut out something that's really worthwhile to the general public.

This is my feeling on the matter. I am very concerned. Look at salaries. How many employees are involved in these salaries and wages and benefits which total almost \$3 million? How many employees are involved?

**Mr. Ruston:** One hundred and twelve.

**Mr. Hennessy:** One hundred and twelve. Well, could you not take care of thousands of people for \$4 million who need hospital beds? This is what I'm concerned about:

that we institute all these agencies and they are only duplications of the present services. If you have a toothache, you recommend that he goes to the dentist. I could recommend the same thing.

**Mr. Chairman:** I'll defer to you on this but both Mr. Hodgson and Mr. McGuigan have some comments. Then, perhaps, if you could respond to—

**Mr. Hodgson:** I just wanted to comment on—maybe you could break it down first—the workmen's compensation case where they need a \$250 lamp and you said it costs \$6,000 or \$7,000 to investigate.

**Mr. Hoilett:** That was the calculation of the select committee.

**Mr. Hodgson:** How would you run up expenses of \$6,000 or \$7,000? Could you break it down a little bit?

**Mr. Hoilett:** I'm sorry. That wasn't my figure, Mr. Chairman. That was the figure arrived at by the select committee. I think they included the time estimated by the workmen's compensation officials. They included their own time, too, I think. They were deliberating about that particular recommendation. That was their figure. I didn't take the time to—

**Mr. Hodgson:** It's a good job it didn't get on the record that way because that's the way it came out. You were asked to investigate a \$250 lamp and it wound up costing \$6,000 or \$7,000.

**Mr. McGuigan:** I've only been a member of Parliament for two years, so I don't speak with the long experience of some of my colleagues. Perhaps my memory is a little fresher regarding the problems I had, as a businessman and as a citizen, in dealing with government and the simple business of making a phone call to some agency. You can envision that the person there probably has many letters in front of them and he gets a phone call that he can pass off to another worker. After you get passed along to five or six people, you get mad as hell. Often, you give up. You just say, "I can't get any place with these people," and you end up with an awful lot of frustration.

I generally tend to support the office of the Ombudsman. I'll make the argument that if we have so much government—and we do; we have government in every corner of our life today—but if that is justified, and maybe it's not justified, because a lot of people think it isn't justified and that we've gone too far in regulations, but if so much government is justified, then surely we can justify just a little piece of it for an independent agency

that tries to help people work their way through the bureaucracy.  
[11:30]

I was interested to note that the Ombudsman visited my area recently and sent me a list of the people who might come in and who had given their consent to do that. Quite a number of them were cases I had already investigated, and I rather think I had carried them as far as I possibly could and they were at the end of the line.

It doesn't bother me at all to think that these people can go to an independent person and find out that Jim McGuigan did the best he could and he didn't look at that person's politics and perhaps did not end up figuring: "Well, I am not the same politics as Jim McGuigan; he didn't really go the route he should have gone." I am kind of happy that the Ombudsman can say, "McGuigan was right." And if McGuigan was wrong and something can be done, I am happy about that too.

I have studied a bit of sociology in my time, and I have been involved in people's affairs all my life, I guess. I realize that in every community there's a hierarchy of very wealthy and influential people at the top; they can meet on the street corners and tell their little problems to a person who is a member of that select, inner group, who speaks to someone else and the problem sort of goes away. But, down below, we have people who aren't members of that group; they just feel left out—and they are left out. I think this office is justified; if the big government is justified, then I think the office to counteract that is justified.

I had one occasion to visit the Ombudsman's office when I was a member of the Ontario Federation of Agriculture executive; they asked seven of us over there, I guess, and we were treated very royally. I suppose I am telling tales out of school, but we were treated royally. We were taken into the private bar, and everything was there that you could possibly want. As the meeting ended, a fellow came and took a picture of us with the Ombudsman. I was very proud to have my picture taken with the Ombudsman. Later, at the Legislature, I was given the same tour, but it wasn't nearly as plush as the first tour.

**Mr. Epp:** Different classes.

**Mr. McGuigan:** I have great respect for the past incumbent; as a matter of fact, when he retired I wrote him a letter telling him how much I had appreciated one particular job he had done in my riding. Some of my colleagues kind of teased me about that. But he

was a pretty flamboyant individual and, to a man like him who had earned a very high salary over his years, this would not seem out of the way and it seemed quite natural, I guess, to his office. I certainly would like to hope the new Ombudsman, Mr. Justice Morand, will not be as flamboyant.

**Mr. Kerrio:** Are you requesting some kind of subjective or objective statement about that?

**Mr. Chairman:** Do you wish to respond now—

**Mr. Hoilett:** Mr. Chairman, I am sorry that Mr. Hennessy has left, because he raised some points that I thought deserved some comment. First of all, as to the cost of the office, I haven't done all the mathematics that Mr. Maloney has, but I gathered in terms of what our budget is and in terms of the total provincial budget, it really is infinitesimal looking at it in those terms which is a valid basis.

**Mr. Chairman:** Mr. Hennessy is just outside on the phone. He may well be back, so perhaps it would be sensible to hear from Mr. Kerrio now and then maybe you can respond to both of them when he returns.

**Mr. Kerrio:** My remarks about the Ombudsman are a reflection of where I come from, I suppose every one of us here brings some part of his former involvement with him to the Legislature. Coming from the private sector and having always been forced into constraints of fiscal responsibility, I tend to bring some of that to bear with the things we do here. I suggest to you, sir, that you probably inherited something that in some way you have to justify, whether or not it would have been the way you would have gone, because it's there, it's in place, there are numbers of people there and there's very little that can be done about it.

Maybe there is something that can be done about it. Maybe your personality could project through and suggest some alternatives or some other method you would have used to put the Ombudsman's office into being. One of them I would suggest to you is this. There has been much mention made here of our offices and one of the things wrong with the Ombudsman was the timing. After many, many years of not being able to serve the public in the way we should have through constituency offices, they came together at the same time. I would like to have seen the Ombudsman come a few years later. I would like to have had the Ombudsman make an assessment of how well the public is being taken care of with respect to some place to go to sort things out.



There has been a tremendous proliferation of social agencies. They have a huge building in my small city completely dedicated to looking after people's problems. The Workmen's Compensation Board has developed an appeal procedure second to none. They provide people to go with an applicant or an appellant who wouldn't quite know how to handle himself. There are all sorts of things being done and in the middle of all this comes an Ombudsman.

I would like to have seen it a little further along. I would have liked to have seen the Ombudsman and a small staff go out and analyse the appeal procedures for two or three years, see what's in place to which people can apply, see if it's functioning properly and if not, why not. How could we better it? How could we then put the Ombudsman in a position to deal only with those cases where it has been proven they are, in fact, the last resort?

There should have been that kind of involvement. There was great expansion of an office much before its time, much sooner than it really was justified. How do we come back now? I don't quite know. I'm frightened of what happens in the government. You know a good part of this \$4 million is borrowed money. It's not a case of having arrived at a point where we have excess funds and are looking to do the things that should be done for our society in the way of culture and art and a meaningful involvement in providing a final appeal for everybody who has a problem. We are doing it at the worst possible time.

Look at the number of people involved. They tell me the staff of the Ombudsman in Ontario is as large as the combined staff of all the other jurisdictions across Canada, nearly the same as that number of members representing the people of Ontario, 125 strong. I would like you to help me. Give me your inner thoughts about what would have happened if you had been there at the inception. Could we have suggested that you go and do a great more investigative work before you come back to the Legislature and said, "Gentlemen, it's going to cost this kind of money and we should have this kind of staff to do the kind of job I think is required"? Maybe that's not a valid point but it's the way I feel down deep.

Let me point out a big problem that exists for me within the ranks of the Workmen's Compensation Board. You might look into this for me some time in your responsible position. In every other aspect in our democratic process, we look to see who is responsible if there's any kind of lawsuit or any kind of

involvement where damage has been done and damages have been given out. The judge, in his wisdom, can hand down an apportion, settlements, the way he sees fit.

Do you know that in workmen's compensation disputes, the employer pays for all the process, no matter who is at fault? I have suggested for years that in compensation, there shouldn't be any such thing proving the man was hurt on the job. I couldn't care less where he got hurt; he is entitled to compensation. When it's the fault of the employer, he should be assessed and directed to pay for that. But when there is no fault proven, payment should come out of a general assessment or the public purse.

Workmen's compensation is based on something that is not democratic. They charge individuals no matter who is at fault. I've always argued that point. I point out to you that while some people aren't satisfied with what they do in the collection, there's a very much more meaningful problem in that whole picture of compensation and that is the unfairness in the way they assess the people who pay for it.

I see problems and I see things to which I wish the Ombudsman could address himself. I wonder if your staff has any kind of a viable way of questioning an individual who presents himself to determine whether he has pursued every reasonable way of settling his problem. I don't care whether it's at the social service level, at the appeal tribunal that exists in the compensation board, or with the members here. Would that have been a good first question? The Ombudsman then might not need such staff and dollars to do the job. We don't have the kind of time to get involved individually. Those are some of my concerns and I hope you might give us an idea of the direction in which you intend to go.

**Mr. Hoilett:** Mr. Chairman, maybe I should start where Mr. Kerrio left off and go back. To answer a question that Mr. Kerrio asked, yes, one of the first things members of the staff of the Ombudsman do in respect of a complaint, is to find out whether or not a complainant has exhausted whatever appeal procedures are available to him, and for the most obvious reason that if he hasn't, and the time for the exercise of that right hasn't passed, we wouldn't have the jurisdiction to investigate.

Secondly, we would seek to inform ourselves as to what other, if any, non-statutory but administrative procedures are available for resolving an issue, and in the appropriate circumstances would require the complainant to take advantage of those administrative



procedures. Our act was quite explicit in recognizing those very contingencies. Section 18 of our act recognizes those contingencies and invests in the Ombudsman discretion either to refuse to investigate or to discontinue an investigation which has commenced for any of those reasons.

We do seek to inform ourselves in respect of those matters. Our office is now almost three and a half years old—at least in fact if not in law—and over that period of time the members of our staff have gained experience, knowledge and accordingly at that level alone, certainly in my view, there has been an improvement in terms of efficiency. In other areas where they do the same thing the second or third time around, they can do it a lot more quickly.

Mr. Hennessy raised some issues earlier and in one of the issues he raised, he really went to the very root of the creation of the Ombudsman's office. I don't think it's fair for me to make any comment on that point apart from saying that was an issue which the Legislature addressed some three years ago and in its wisdom created that office. I think it was a good decision. That was an issue they addressed. They also provided in the legislation that where there are statutory rights of appeal, review, et cetera, the workman doesn't have jurisdiction. By creating the office of the Ombudsman, the Legislature was admitting a deficiency, but I don't think there's anything wrong in admitting a deficiency.

[11:45]

By virtue of that large bureaucracy, it is inevitable since we are all human beings that problems would arise from time to time. If there has been a suggestion of bad faith on the part of public servants, the government or the Legislature would have established a larger police force instead of an Ombudsman. Our experience in the Ombudsman's office has fortunately justified the view that we are not seeking in an investigative process to find people demonstrating bad faith. Let's just face up to the fact that the reality of life is that a number of decisions are being made on a daily basis involving sometimes very complex problems and there are oversights, mistakes and delays. That's why we have an Ombudsman's office.

Mr. Hennessy has well addressed the question of duplication. I would hate to say that there may not be some element of duplication. The phenomenon of the Ombudsman is rather interesting. I suppose it's no longer a phenomenon as it's certainly an increasing one. As recently as this week, we've had three visitors from Japan, from Tokyo, from the

Institute of Administrative Studies there. That institute, I might add, has operated under the aegis of the Premier's office in Japan since 1948.

The point that our visitors made was that in various government organizations there are executive-type agencies for receiving and dealing with citizens' complaints in respect of the administration of various government agencies. Notwithstanding the fact that they have at least that part of the machinery in existence, which indeed we have in Ontario and other provinces in Canada, they are looking at the concept of the legislative Ombudsman with the view ultimately of creating that very type of office.

It's obviously an admission, as I said, on the part of a number of presumably progressive civilized jurisdictions these days that, notwithstanding the fact that there are in place a number of agencies that deal with citizens' complaints, by virtue of the great involvement of government agencies in our daily lives, there is also room for some independent function like an Ombudsman.

Mr. Kerrio: I have just one question. Do you feel a responsibility of improving the relationship as it exists as a function, particularly in workmen's compensation, so that it would lower the work load that affects you as the Ombudsman? Is there any kind of research being done within the Ombudsman's office? I would say we get repeated problems here. Can you help cure the situation at the source?

Mr. Hoilett: I think that occurs almost inevitably with the passage of time. Certainly, as a result of the existence of an Ombudsman's office, the Workmen's Compensation Board itself has become a bit more sensitive or concerned about certain types of problems that arise. Several recommendations that the Ombudsman has made in his reports are being favourably considered by the board. That is probably not in respect of a specific complaint but in terms of general application.

There's just one point that Mr. Hennessy raised which I think was almost in the form of a question. It's rather difficult to answer specifically as to what our rate of success is. If I were Ombudsman, I would like to think that every case that was investigated was a success. Sometimes, by virtue of the facts, we are bound to support the complainant and on other occasions we are bound to find the complaint is unsupported. Indeed it might even be the basis for paying tribute to the public servant. An independent investigation, regardless of what the outcome is, I would

like to think is a very successful exercise and would be a solitary tribute to the democratic process to which we should all pay more than lip service.

To answer your question, Mr. Hennessy, if I were judging how successful an investigation was I would not look at whether we supported or didn't support a complainant; I would look at the quality of the investigation and, indeed, at what, if any, valid issues might have been raised and resolved or focussed on in the course of that investigation.

**Mr. Hennessy:** I'd just like to say that I asked you for the percentage of success. Everybody should be proud of their own operation.

**Mr. Hoilett:** May I add a footnote to that answer? I'm sorry I can't be specific. What I can say is that very shortly our next report will be forthcoming and answers to some of the very questions you have asked will be provided in that report.

**Mr. Hennessy:** What I'm saying is that there are some people who go to you and you know as soon as they sit down and tell you their problems that nothing can be done about it. I'm just asking what it costs in dollars and cents for all these people who go to see you and for the time they spend, when we have a budget of this nature, \$4 million?

I'm not criticizing you. I'm just saying that they could come to my office and I could send them to social services or to the Workmen's Compensation Board, the same thing you people are doing. You just direct them to that office, and that's why I say there is a duplication. There are a lot of people who come to you, and as mentioned here they are chronic complainers and they have something they can't solve any way, and you know as soon as you sit down and talk to them that nothing can be done. It does take time and it does take money to listen to that person. I'm just saying there should be a streamlining of the services. I can't see such a large staff as that for a duplication of government services.

**Mr. Hoilett:** Mr. Kerrio, I'm sorry, you had raised a question—I'm not sure whether it was tongue in cheek or serious—about what I would have done if I had been the first Ombudsman.

**Mr. Kerrio:** I didn't mean it that way. I tell you I want to qualify that. I'm suggesting to you that if the personality that was there could do what he did in a very personal way, I would like to see your personality reflected in reverse and that you might say to the

people of Ontario: "I think we can do this job much more efficiently."

**Mr. Hoilett:** I quite agree with you.

**Mr. Kerrio:** And address yourself to some of the things that have been suggested here.

**Mr. Hoilett:** Inevitably when an office is created, especially an office like the Ombudsman's, or indeed any significant office, where there is a statute creating that office that sets the legal boundaries within which one has to work, inevitably the incumbent is going to leave the stamp of his character on that office. Mr. Maloney has been described as flamboyant, among other things, and inevitably Mr. Maloney is going to leave his imprint on that office. One may argue as to whether or not in all cases that is what one might have liked or anticipated, but in a way to me it's almost academic.

I think one should look at the more substantial issue, and maybe the people who create things don't have the same approach as other people who sustain things. I still feel Mr. Maloney did a magnificent job of creating an Ombudsman's office. If I had been the first Ombudsman maybe I'd have done things differently, but that's not to say I'd have done things any better. There may have been different characteristics to the office as a result, but I think that was inevitable. In my view, whoever his successor is, I'm sure he or she will leave the stamp of his or her character on that office. If I were that person I suppose to some extent my character would be there. Even in the short time I have been there, I may have left the stamp of my character there.

**Mr. Chairman:** Sir, at the beginning you made some opening comments and you made reference to a film and to some brochures which are being prepared—at least the film is being prepared.

**Mr. Hoilett:** There is preliminary work being done on the brochures, which we hope will be accelerated as well, so that they may become sort of concomitant.

**Mr. Kerrio:** Are you playing yourself in the film?

**Mr. Hoilett:** If I appear at all in the film, I imagine it will be in a very minor role.

**Mr. Chairman:** I assume these devices are being used to popularize the office.

**Mr. Hoilett:** I understand it will probably be a 30-minute film, maybe including a couple of commercials, which means the film itself might run for 27 or 28 minutes. I imagine it will be the kind of film that will be available to schools and organizations, to virtually anyone who would like to have it.



**Mr. Hodgson:** You'll have to put another 100 on your staff.

**Mr. Hennessy:** Who'll be the director of that?

**Mr. Hoilett:** I don't think we'll need our own staff members for that purpose. The film certainly will speak for itself.

**Mr. Hennessy:** If you need any actors, there are plenty here.

**Mr. Hoilett:** We'll get in touch. What may happen is that on occasions when members of the Ombudsman's staff are asked to speak to some group it may act as an aid to their address. I'm not saying this will be the case, but I can see that it may.

**Mr. Chairman:** I think it's a good idea. I was just curious as to whose idea it was and how much it actually cost.

**Mr. Hoilett:** I think the estimate provided about \$45,000 for that film. My guess is that it will probably cost a bit more than that.

**Mr. Chairman:** I assume that the brochures—this would make sense to me—would be available at least in all the constituency offices and in other places as well?

**Mr. Hoilett:** Very definitely.

**Mr. Chairman:** But they are being finalized now.

**Mr. Hoilett:** That's being addressed. Certainly it's my hope that within this fiscal year we will have that as a reality as well.

**Mr. Chairman:** Gentlemen, any other questions?

**Mr. Ruston:** I have one or two. The process is now that you make the report and bring it to the committee. It reports back to the committee. I haven't been on that committee for a year or so—I don't want to put you on the spot—but I wonder how that system is working with regard to the Ombudsman's office. You've done your investigations and you're reporting now in the Legislature, which is indirectly to the committee. Is that an important part of the Ombudsman's office, I wonder, or how is that working out as far as your office is concerned? Would it be easier to report to the Legislature? Do you have any thoughts on that?

**Mr. Hoilett:** I don't know how well I can answer that question, Mr. Ruston. I'll do the best I can. I think a lot depends on what the Legislature does with the report of the select committee once it gets it, and that's really out of our hands. I suppose we can make public statements or not, as we choose. It strikes me once we have completed our investigations and made a report which goes to the select committee, I don't think it's

necessarily out of our jurisdiction in any final sense, but the ball really is in another court.

The select committee, in the course of its deliberations, certainly may comment, make recommendations and suggestions, some of which are responded to positively by the particular government agency involved. There are resolutions at that level, but in the case where those recommendations remain outstanding without any positive response, the ball is definitely in the Legislature's court. I don't know yet how that process is going to work because we haven't seen it at work.

**Mr. Lane:** Mr. Chairman, along that same line, having been a member of the Ombudsman committee in recent years and having been a member of the public accounts committee in years gone by, I think the Ombudsman's report being dealt with by the committee would relate favourably to the auditor's report being dealt with by the public accounts committee. We look at what the people have put forth as problems and try to rationalize them.

**Mr. Hoilett:** I think it's unfortunate there wasn't a larger audience at the debate of the select committee's report. Maybe I shouldn't be rushing in where angels fear to tread—

**Mr. Ruston:** That happens quite often.

**Mr. Hoilett:** —but I don't know why there wasn't a larger audience. I think that was unfortunate. Certainly from the Ombudsman's point of view, and hopefully from the Legislature's point of view, I would like to think there is enough support for the office that it would generate more discussion, regardless of the outcome. My hopes are modest probably, but to me one of the outstanding advantages of the democratic process is sometimes just the discussion even more than the results. The process is sometimes as important as the product.

**Mr. Ruston:** I would have to agree, I suppose. With the overall part played by the Ombudsman from day one, and considering the personality of the Ombudsman who was appointed to that position, I agree with you. A while ago Mr. Kerrio mentioned it may have been different if somebody else had been in there. Maybe its being a new office was a factor, and it was one way to get it out in the forefront.

I wonder, do you have many people who are directed to you from the so-called Ombudsman on our famous government-owned CBC network? I say that with certain reservations. Do you have many people who are directed to you from that?

[12:00]



**Mr. Hoilett:** I am not quite sure what the figures are. I certainly know that we have had such people in the past, and I think we still do. I couldn't give you a figure, but I know we have had them.

**Mr. Ruston:** There are some people who feel that show is part of it, until they get to know better; it has been given that impression.

**Mr. Chairman:** Gentlemen and members of the committee, as you know, five hours have been set aside to discuss the estimates of the Ombudsman. We have the opportunity to proceed, or we can pass the item and the vote now, if you so wish.

Vote 701 agreed to.

**Mr. Hoilett:** Thank you very much for the opportunity of appearing.

**Mr. Chairman:** There is one last small but important matter. This committee will not sit again until January, or perhaps February, dealing with the Residential Tenancies Act; we have to approve, in principle at least, a budget for that period. This is our last opportunity to do so. We had figured—and this is only a round number; Fran has done the work here, based only on a guess of 21 days of sitting over that January-February period, which may prove to be high—based on the per diems and, since there will be out-of-town members, the travelling required, but with no allowance for a counsel or consultant, that we would have to approve, at least in principle, a budget in the order of \$30,000 for the standing general government committee looking at the Residential Tenancies Act.

**Mr. Lane:** Is that all that is before us at the moment?

**Mr. Chairman:** Is that the only matter before the committee? That is exactly right. We are going to get into a discussion about whether we should have counsel during that time, or whether we should have a consultant; that is something that is up in the air. When I think back to spring, the consensus of the committee then—and Mr. Hodgson is the only one who was actually a member of the committee—

**Mr. Ruston:** We were not on it.

**Mr. Chairman:** No, because there were so many replacements. There was a very strong feeling then that we not hire counsel. We didn't; we grabbed a counsel from the Attorney General's office. So I don't think there is going to be anything—

**Mr. Hodgson:** I don't know what place counsel should have.

**Mr. Chairman:** I think it's ridiculous.

**Mr. Hennessy:** I'd like to ask a question. There are some of us who are sitting on a couple of committees; when you set the days, would you make sure that they don't conflict?

**Mr. Chairman:** Yes. Tomorrow, it is my understanding, the House leaders are going to come back to the respective chairmen with some roughed-out timetables. But we are going to have to know by Friday, for sure.

Can we then get the support of this committee to approve—admittedly, it is on a preliminary basis, based on 21 days, which may be high, and based on the per diems and travelling only—a budget for \$30,000?

**Mr. Lane:** The only point I raise, Mr. Chairman, is that if something else should be piled on the plate of this committee—

**Mr. Kerrio:** I think you could deal with it subsequently.

**Mr. Lane:** —we would have to go back for more money. I'm just wondering if we should—

**Mr. Hodgson:** We can't sit more than 21 days, anyway.

**Mr. Ruston:** The House will be opening in February.

**Mr. Hodgson:** That's right.

**Clerk of the Committee:** It will be about \$25,000 for the per diems. Maybe \$5,000 wouldn't be enough for those who travel; I don't know. You see, Mr. Hennessy came down—

**Mr. Hodgson:** He gets free plane travel, anyway.

**Mr. Kerrio:** If the budget is tightened, just use the members who live close by!

**Clerk of the Committee:** Maybe I should make it a bit more. I'll make it \$50,000. It can always go back in.

**Mr. Chairman:** If, in fact the—

**Mr. Lane:** If the House is not in session, we may have something we couldn't deal with.

**Mr. Kerrio:** This is too close; I think it might be a good idea.

**Clerk of the Committee:** We'll make it \$50,000; it can always go back.

**Mr. Ruston:** On the other hand, there is a certain group here who want to go to every place and to hear every tenant in Ontario; and if you make it \$50,000 or \$60,000, we are going to use it, I'm sure.

**Mr. Chairman:** I know. I'm on the same wavelength.

**Mr. Ruston:** Perhaps it should be \$35,000 or so.

**Mr. Lane:** I don't care, really.

**Mr. Hennessy:** What I'm saying, with all due respect, is that somewhere it might come out that for 21 days we are spending \$50,000. My God, we are not going to use the money; so let's go with what we really need.

**Mr. Kerrio:** Do you think that requesting adequate funds will prolong the hearings?

**Mr. Ruston:** If you get more funds than are adequate, it could.

**Mr. Kerrio:** If you go in at the lesser sum, then somebody can make a notion that we just get more funds.

**Mr. Chairman:** No question about that. Whether we now approve \$30,000 or \$50,000 on principle, we are going to be in the same pickle, because I can just hear the travelling arguments come up—and I am not going to pass a value judgment on that—

**Clerk of the Committee:** There won't be any travelling.

**Mr. Hodgson:** We're not going to travel.

**Mr. Hennessy:** I don't want to travel.

**Mr. Hodgson:** Unless we travel to Niagara Falls.

**Mr. Chairman:** I don't mean travelling south.

**Mr. Ruston:** Windsor, North Bay—

**Clerk of the Committee:** But they have had all the hearings. It is really just clause by clause. Why it is so long is that social development committee members just sat there and said, "Will you come again when we are studying it clause by clause?" So all these people are going to come tumbling back again; and that is going to prolong it. That is why I put it on for 21 days. It shouldn't go beyond 10.

**Mr. Lane:** What I am concerned about, Mr. Chairman, is that you have sufficient funds to do the job; and if \$30,000 will do it, God bless us.

**Clerk of the Committee:** Okay. So it's \$30,000?

**Mr. Chairman:** One of the best things that has happened since I have been around this place, and it was as a result of a meeting of the board of internal economy six or seven months ago, is that at the first meeting of the general government committee looking at that bill, say it is in mid-January, we will approve the budget in detail. That is a good thing. So we will go through this exercise again.

The committee adjourned at 12:07 p.m.

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 Hennessy, M. (Fort William PC)  
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 Lane, J. (Algoma-Manitoulin PC)  
 McCaffrey, B.; Chairman (Armourdale PC)  
 McGuigan, J. (Kent-Elgin L)  
 Ruston, R. F. (Essex North L)

**From the Office of the Ombudsman:**  
 Hoilett, K. A., Acting Ombudsman















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